

Journalism as a Mirror of the Slovak Democratic Society - Current Limits and Freedoms of the Occupation

(Qualitative interview study on freedom of expression and journalism in the
Slovak Republic)

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Abstract

The Slovak Republic has experienced the suppression of national values under the Austro-Hungarian Empire, fascism, communism, and for the last 25 years democracy. The democratic transformation is ongoing process, which improves continuously by accepting democratic values, laws, and freedoms. The media are currently in the best position since the collapse of communism. The written freedoms are exercised by the real actions. However, freedom of speech as any other political right is a subject to limitation, in order to protect the national and moral values.

The study examines current situation of the journalists and identifies direct and indirect obstacles; also the strengths and weaknesses of the occupation. The thesis focuses on the ethical norms, legislative rights, and targets effects of legislation, ownership, and economics on the journalism. Introduction of the study reveals the background of the democratic and journalistic development. The research lean on public sphere, free speech, and free press theories. The data from qualitative interviews reveals the situation through the eyes of individuals who frequently come across the issues related to free speech. The journalists often cope with obstacles and perceive declared freedoms and existing limits.

The research indicates the three main obstacles, which represent direct and indirect impact on freedoms of the media. Journalism is currently limited by the ownership concentration, economic issues, and the legislation. Contemporary obstacles affect investigation, watch dog function, and indirectly contribute to violation of the ethical norms. The study reveals that journalism is based on freedoms of individuals who work under constant threats of lawsuits and often face negative consequences of the articles. Slovak journalists are missing functioning organisation that could contribute to the better standards of the occupation. Violation of the ethical code occurs mainly while investigating on the matters of public interests, but might be connected to sensationalism as well. Journalism is improving along the democratic standards of the society and in order to minimize harm a certain degree of respect for privacy, ethics, and law needs to be implemented. This research provides an insight on overall situation of journalism in the developing society and reveals the main obstacles, which provide the biggest threat for freedom of expression.

Preface

This dissertation is submitted for the master degree at the University of Oslo, Faculty of Humanities, study programme Nordic media. The research was conducted under the supervision of Professor Charles Melvin Ess in the Department of Media and Communication between autumn 2014 and spring 2015.

All the work presented henceforth is an original and unpublished product, except where references were made to previous research work. The fieldwork reported in the dissertation was approved by the Norwegian Social Science Data Services (NDS) and directed by the Norwegian privacy laws. The practical part of the dissertation was realized in the Slovak Republic and included sixteen qualitative interviews. The master thesis contains 43 495 words and 116 pages.

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List of Acronyms

CEE – Central and Eastern Europe

ČSFR – Czech and Slovak Federative Republic

ECHR – European Court of Human Rights

EU – European Union

HZDS – Movement for Democratic Slovakia; political party

IPI – International Press Institute

KDH – Cristian Democratic Movement; political party

OSCE – Organisation for security and co-operation in Europe

SaS – Freedom and Solidarity; political party

SDKÚ-DS – Slovak democratic and Cristian union – democratic party; political party

SITA – Slovak informational press agency

SMER-SD – Direction – social democracy; political party

SSN – Slovak Syndicate of journalists

SNS – Slovak National Party; political party

TASR – Press Agency of Slovak Republic

VPN – Verejnost' proti násiliu transl. Public against Violence

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CHAPTER ONE

INTRODUCTION

1.0 Introduction

“The functioning modern democracy is based largely on abundance of information. Regulation covers the form in which information is appropriated, its legal circulation, and the damage or loss that results from its dissemination.” (Zeno-Zencovich, 2008, p.13)

The quote above explains how democratic society treats the information. There are certain demands on how information should be disseminated and which kind are generally considered as appropriate. Media which is responsible for circulation of the news content operates within the regulations and laws posed by the government. Freedom of expression is declared but not absolute. Governments worldwide regardless of constitutional freedoms seek to have a control over the media content.

The chapter is an introductory part of the study named *Journalism as a mirror of the democratic society – current limits and freedoms of the occupation*. The goal of the study is to examine and evaluate the current situation of journalism with all strength and weaknesses within the democratic values. The main obstacles will be identified together with limits emerging from legislation and marketization of the news. The thesis builds on free press, free expression, and public sphere theories; also on the main duties and responsibilities of journalists with regards to the ethics. The chapter has two main parts and is organized as follows: section 1.1.2 Background of the problem; 1.1.3 Statement of the problem; 1.1.4 Purpose of the study; 1.1.5 Significance of the study; 1.1.6 Research questions; 1.1.7 Assumptions; 1.1.8 Limitations; 1.1.9 Scope; 1.2.1 Historical overview of democratic principles; 1.2.2 Freedom of expression as the fundamental right guaranteed by the Slovak constitution; 1.2.3 Journalism and the media; 1.2.4 Journalistic associations ; 1.2.4.1 Slovak Syndicate of Journalists; 1.2.4.2 Press Council ; 1.2.5 Slovak laws related to journalism; 1.2.5.1 Press act 167/2008; 1.2.5.2 Slovak media and defamation; 1.2.6 The judiciary system of Slovak Republic; 1.2.6.1 Constitutional court; 1.2.6.2 Judiciary and free expression; 1.2.6.3 Judiciary after 2004; the last part is the section 1.3 Chapter summary.

1.1.1 Background of the problem

To maintain the good democracy there is a need for objective press services that could play the watch dog role, reveal mismanagement of public resources, and the corruption. According to the Transparency International, the Corruption Perceptions Index 2014, Slovakia ranked 54th place from 175 evaluated countries which is the sixth worst position from the countries of the European Union. (2014, p.9) Control of the public resources and the public life needs to be freed from negative consequences. Corruption in the country is significantly high with a state of free expression things will gradually improve. In 2014 Slovakia ranked the 20th place on the World Press Freedom index released by the Reporter without Borders. (“World press freedom index,” 2014) Jumped to the 14th position the following year. (“2015 World Press Freedom Index,” 2015) The situation was positively perceived by the international organization, especially after the Press Law amendment of 2011.

The main focus of the dissertation is the journalists, employed by the biggest national newspapers in the country. None of those are publicly owned, but are purely private businesses with the main goal to fulfil desirable income. The periodicals do not publicly admit affiliation to the left or the right wing, but according to the type of articles and preferred topics it is said they all tend to slander one or the other side of the political spectrum. It could be assumed the objective newspapers do not exist because they are owned by those who put a pressure on the editors and publishers. In the country where private and public interests often clash, the line between ethical and unethical is tiny, but very important. The situation between newspapers and government is often full of conflicts and lawsuits. Continuously, there are stories of journalists who are sued for their articles, or publishers that had to pay off the sum of the year income to satisfy damaged reputations of certain officials. The public trust of the government in the country is very low, therefore, the officials are often controlled. Their public and personal lives interest the editors and journalists who follow their actions to inform the public. There have been numerous sensitive cases of unethical behaviour, corruption, and bribery leaked through unknown sources to the journalists. Often, the sensational matter of the messages is what interests the media. Stories that sell are often the sensitive ones. They discuss the power leaders and uncover identity of wrongdoers, provide judgment, solution, and understanding of the case. They are problematic in their nature and cause long term consequences in the form of court cases that results in penalties and public apologies on the front pages of the newspapers. There might be freedom of speech, but not necessarily freedom after speech. Which means, declared freedoms are often accepted differently in real life. Usually, the statements have

negative aftermath appearing in the form of penalties and litigations. Among the biggest obstacles in Slovakia are protracted court cases and awards of punitive monetary compensation as the redress for damaged reputation. The negative consequences might cause chilling effects and eventual self-censorship, which inhibit free expression and pose limits for the democracy. Another significant obstacle is the ownership concentration and presence of oligarchs which cause several limits for the journalists and have significant impact on the media autonomy. Oligarchs who owns the media might have interests in politics and this cause the journalists investigation more difficult, simultaneously, they might be limited writing about their own boss.

1.1.2 Statement of the problem

Free and independent journalism is a necessary supplement of the well-functioning democratic society. Without having professional journalists and their independent opinions, the development of the society could be inhibited. Entry to the Europe Union increased the standards in society, legislation, and the media. Freedom of expression has the best condition since the collapse of communism. However, there are still issues the journalists are facing nowadays. Therefore, is it of this research significance to identify and examine what journalists see as the main obstacles, how these influence the work duties, and thus, what is the degree of free speech in the democratic regime. Many argue the situation could be improved, the rules could be better, and the freedoms higher. There are continuous problems regarding litigations and ownership concentration. Therefore, the main aim is to understand how journalists perceive current limits, which obstacles represent the capital concern, and how they cope with the responsibilities related to the profession. Ethics is also one of the important factors when freedom of speech is declared. Many studies have been done on the Central and Eastern European model of the countries of the former communist regime with regards to transformation, democracy, and the media quality. A little research has been done particularly in the Slovak Republic, which would examine legislation, ownership, and simultaneously ethics. Therefore, the current strengths and weaknesses of journalism were important to discover. The goal was to fulfil the knowledge gap by summarizing the overall situation of the needs and the demands of journalism, posed by the society. The ethical consideration was taken into account to understand the correlation between free expression and the responsibilities of the journalists.

1.1.3 Purpose of the study

The goal was to examine the journalists currently working for the printed media in the country. Mainstream newspapers are purely private businesses, existing without any subsidies that would ensure plurality. Slovakia has numerous dailies, weeklies, two-weeklies, and journals. There are diverse national, regional, and local papers providing variety of information about the topics related to public events, politics, economics, finance, and hobbies. However, not each of them provides investigation that could open cases related to corruption, societal problems, economic, and management of public finances. Therefore, the list of potential journalists was shortened, and the main focus was on the mainstream and tabloid press with nation-wide coverage and with the most readership from all potential newspapers. The aim was to choose the respondents who can reflect to the overall situation of the journalistic freedoms and limits related to their previous experiences. In majority, the cases that resonate in the society are released by the biggest and the strongest publishing houses; therefore, the respondents cannot be randomly chosen. The selection was based on the purpose of the study and the professional experiences of the sources was the primary attempt to ensure the quality.

The study reveals qualitative knowledge using in-depth interviews as the singular method. Maximum of two journalists from each media were selected for an interview approximately 30 minutes long. To supplement the knowledge the three interviews with elites were realized. This kind of interview increased understanding of the issue from unbiased sources. Three experts were chosen to reflect on the three main research questions and aimed to uncover and closely examine the studied topic. The final number of respondents was sixteen representing various opinions and thoughts on which the thesis developed the main arguments.

1.1.4 Significance of the study

By summarizing the hardship of journalism one can identify the societal issues. The quality of journalism reflects the situation of the society, because they depend on each other very closely. While examining the current strengths and weaknesses of journalism one can mirror issues of the society. When weaknesses will be identified, humanity can put effort into removing them. While recognizing the strengths, the development could be underlined, thus one can recognize the degree of the quality of the informational sources provided by the society. The human beings depend on impartial and truthful information, and journalists are considered as one of the most reliable and widespread source of our knowledge about the surrounding

world. Therefore, the identification of nowadays constraints can increase the future quality of informational sources and ensure the development. The journalists discuss existing problems and check the government because politicians make crucial decisions about a still developing country and its inhabitants.

1.1.5 Research questions

The research contains three questions which aim to broaden existing knowledge in the area of journalism, freedom of expression from journalistic perspective, and responsibilities of journalists as demanded by the ethical codes. The three main questions are interconnected and relate to each other. While the first examines the obstacles of free speech, the second identifies how the journalists cope with legal and moral rights. The third question relates to ethics which, in free and gradually commercialized news sources, is the crucial area for the journalists who demand to be free from obstacles and other constraints in the modern society.

The first research question and hypothesis:

What do journalists see as the most significant obstacle(s) in terms of freedom of expression?

If there will be high charges for defamation, the journalists will write less about the sensitive topics. – Self-censorship

According to Zeno-Zencovich, “Historically and despite having established freedoms, there has been always limitations for political, public and civil freedoms, both ‘to print’ and ‘of the press,’ they have been regulated as to when, where, how and to what extent they could be exercised.” (2008, p. 11) Currently, the media in the Slovak environment enjoys freedoms declared by the constitution, also supported by the fact the country accepted the Universal Declaration of Human Rights in 1992. The government still seeks to control the media to a certain extent. Obstacles are not related to any form of prior censorship but rather appear as the form of intimidation caused by the remains of the communistic experience. Another line of obstacles is posed by the market, the business aspect, and ownership, which could have negative consequences with regards to editorial freedom, freedom of journalists, the topic choice, and handling of the media.

The obstacles are limitations which appear as the result of the media outcome or while the message is being processed, before reaching the expected audience. The future negative

consequences of the articles lead to prior self-censorship and the legislation issues cause a chilling effect. Therefore, this question seeks to identify what the current obstacles are and whether they represent limitations for journalists.

The second research question and hypothesis:

How do journalists cope with conflicts between the rights to privacy and the public's right to know?

The journalists are aware of the risk of defamation lawsuits but are not limited by them.

Oluf Jørgensen evaluates the situation as follows, "Tabloid press entertain their readers with endless gossips about various stars and 'star-wannabees' marriages....From time to time hard-news journalism, too, focuses on public figures' private life, investigating, for example, suspected cronyism and other dealings in the interface between private and public interests." (2009, p. 67) Current journalism is often criticized for invading peoples' privacy and for releasing information which does not contribute to the public debate. There is continuous issues of what the area of public interest should be and how to distinguish between private and public matters. However, there are two main groups: regular citizens and public officials; which clearly deserve different approaches while conducting and releasing the information. Within a debate about the right to privacy, which is one of the most important areas of current journalism, the study aimed to find out whether the current legislation represent limits for journalists and how they cope with the right to privacy and the public interest issues. In the Slovak case there are numerous difficulties between what is and what is not the matter of public interest. Therefore, by answering this research question, one can understand the situation more clearly.

The third research question and hypothesis:

To what extent are journalists aware of ethical guidelines and principles while reporting?

Newspapers do not follow ethical guidelines but rather the business strategy to fulfil desirable economic revenues.

Daniel Jacquette summarizes journalistic ethics on the premise of "maximally relevant truth telling in the public interest." (2007, p. 1) Revealing the truth is connected to free expression. Those who profit the most from this area are the journalists and the media. Therefore, it is a significant part of the research to examine the ethics while focusing on freedom of speech.

When freedom of expression is declared the life depends to a big extent, on morality and ethics. People often use unwritten moral rules to determine what is and what is not appropriate. Ethical issues are often related to all professions including the journalism.

Journalists have special moral rights and responsibilities related to their profession. Their aim is to enlighten people about the government decisions and other specific areas of public interest. These types of information are crucial for citizens in the democratic society.

Journalism follows moral norms articulated in the ethical codes. Their importance is significant for the quality of the news reports. The aim of the third research question is thus to provide knowledge and to discover to what extent is the ethical consideration important while writing the stories.

The tabloid and mainstream news sources often being criticized for their sensationalism. Therefore, this section builds on the premise that the business strategy might negatively affect the ethical standards of journalism.

1.1.6 Assumptions

The thesis assumed the current journalism works within the limits that are the legacy of the previous communist regime; and there are also existing constraints posed the marketization and the ownership of the media. The thesis expected that the government and the informational sources are to be balanced in order to provide the greatest good for society. In-depth interviews ensured revealing a significant bulk of information about the current situation. The overall status could be identified through the knowledgeable and experienced respondents which are purposively chosen for the study. The respondents provided the honest information and the thesis recognized to what extent the obstacles limit the journalists; and to what extent the respondents pose limitation for themselves when writing unethically.

1.1.7 Limitations

The main limitation was related to the method used for the study. The respondents felt uncomfortable providing certain details because of the personal nature of the interviews. The anonymity was limited since the majority of the interviews were face-to-face and few were answered by email. To discuss the ethical matters was a sensitive area for many and not everyone had a desire to discuss violation of the ethical codes. Another limitation was the time and personal resources. Oftentimes, the conversation could not exceed 30 minutes, which did

not leave enough time for the last questions of the interview guide. For the researcher working alone without a team, it was difficult to generalize from just a few interviewees. To identify the overall situation, without the representatives of all print media, could not be fully achieved.

1.1.8 Scope

The study size included 16 respondents from Slovakia; 13 were the journalists and 3 were specialists from fields related to the topics of the three research questions. To conduct the knowledge about free expression, privacy, and ethics, the choice of respondents relied on several factors. First of all, they were chosen according to the work place, where the printed media was the only included option. Secondly, the numerous print media platforms were reduced by the size and the type. Finally, participation in the research was determined by the coverage, readership, and characteristics of the produced content. The research focused on investigative mainstream newspapers because of their relevancy to freedom of speech issues; and on the tabloid journalists which are notorious for breaching privacy and ethics. Two main types were studied in order to see differences in sensationalism of the information and to increase understanding of the topic from various views. Each journalist answered the same set of questions, during the face-to-face interview, following the guidelines. The sample did not represent the whole population, but intended to reveal crucial knowledge according to which the qualitative generalizability could be ensured. Three specialists were purposively chosen to refer on the main ideas of the research questions. Each of the additional interviews had an individual guideline.

1.2.0 Extended background of the study

This sub-part provides knowledge necessary to understand the basic ground of the study. It is an extension of the initial background. The aim is to provide short overview of history of the democratic principle, journalism, judiciary, and the print law.

1.2.1 Historical overview of democratic principles.

Slovakia is after a quarter of the century proud of democratic processes, established fundamental rights, freedoms, and good international relationship as the member state of the European Union. The historical development in the 20th century was characteristic for the entire changes of regimes, governments, and constitutional adjustments. In this period the country

experienced three different types of regimes which had significant impact on the current democratic principles. The country is often classified within the Eastern European model that emerged after the particular countries of former communistic regime became sovereign states and maintained the transformation from communism to democracy in the late eighties. The Slovak Republic adapted democracy in the third wave of global democratization period. From 1974 to 1990 almost 30 countries made transition to democracy. (Huntington, 1991, p. 12) The countries of the model have in common the matter of time, context of transformation from previous communistic regime, and the geographic location. Slovakia experienced three regimes: democratic (1918-38) as a part of First Czechoslovak Republic; fascist (1939-45) as a quasi-independent Nazi puppet state; and communist (1948-89) as a part of reconstituted Czechoslovakia. The reasons why the country subjugated a various regimes within the period of the length of one century rests in a prior historical development within the Austro-Hungarian Empire. For almost a thousand years, the national building processes were suppressed by the Hungarians and their nationalism. Secondly, the high illiteracy in connection to mainly agricultural and feudal system with very little consideration on education and political rights caused the country had very few representatives and intelligentsia who would stand for the independence and the economic development.

The main cornerstones of democracy were set after the national protests against the communism. The Velvet revolution in 1989 initiated the collapse of almost four decades lasting communistic regime and began democratization following the principles of the western countries. Demonstrations did not lead directly to the collapse of communistic party, but as Vladimir Tismaneanu argues, there was a significant emphasis on civil society because of dynamic of the ideas that led to shattering the communist rules. (2014, p. 648) The transformation required changes in all sectors and a new legislation corresponding to the democratic standards. Immediately, after the collapse of communism, there were urgent reactions needed, to contribute to democratization. On the Czech side the group around Charta 77 led by Václav Havel took the responsibilities. On the Slovak territory the organization of loose coalition, intellectuals and cultural figures organized the society. These groups created the platform called Public against Violence (VPN). (Wolchik, 1991, p. 208) Initially, the group received public support, but later on the fascination was replaced by distrust and skepticism about the government decisions. As Shari J. Cohen argues, "Mass elites did not form parties or interest groups, instead they remained uncommitted, changing political mask when necessary and appealing to a society whose votes could be won based on populist responses to short-term fears." (1999, p.120)

The Czech and Slovak Federative Republic was the new name of the common state and the draft of Civic Right and Freedoms was articulated according to international treaties, later adopted as the Charter of Fundamental Rights and Basic Freedoms. After the elections in 1990 the VPN created the coalition. The list of candidates was proposed and Vladimír Mečiar was nominated as the prime minister. His person was crucial in this period because of his attempt for the failure of the federation. The Slovak nationalism was seen very negatively and often criticized by Czechs who identified Mečiar as an extremist. His person was typical example of lack of predictability and identifiability of the mass elite. (Cohen, 1999, p.128) Initially, he did not express nationalism or segregation of the federation, but the situation changed soon after the elections. Following the federation collapse, the text of the charter was transferred into the constitutional Act no. 460/1992 Coll., the new constitution of Slovakia. The separation of the countries was perceived variously and many argue it had negative impact on the development because the government gained uncontrolled power over the law-making processes. The Slovak political scene was ruined by opportunism, and lack of citizen organizations that could contribute to national building processes after the revolution. Opportunism is one of the persisting features of political persuasiveness and it is a way of the political success that creates new parties in unstable society. The Lenin regime caused harm and lack of organization because it destroyed all ideologies and interests that were considered as unsuitable. It completely dismantled opposition without leaving a space for any criticism or formations of interest groups. Having no one who could responsibly control the processes of national transformation the individualism and egoism surpassed the public interest.

Six years of Mečiarism era ended after 1998 elections when Mikuláš Dzurinda won and led the country until 2006. During this period the government focused on the liberalization of the economy and business environment. They realized privatization of majority of the state enterprises. The country also entered the Europe Union in 2004. As Jakubowicz summarizes, the entrance of CEE countries to the EU is the final step of transition process because it “determinates efficiently functioning market which is necessary for advanced economy of democratic countries.” (2007, p. 53) To be eligible for the EU, the country had to pass numbers of domestic legislative changes and stabilize democratic and economic situation. The relationship between Slovakia and the union was based on the European Association Agreement signed in 1993, came into force in 1995. The first interest for cooperation with the western countries was expressed by the former ČSFR in 1991 but separation of the federation inhibited the integration process. As the sovereign Slovak Republic the endeavour for European collaboration began in 1993 after signing the Association Agreement in Luxembourg. Official

request for being full-fledged integrated state was posed by the government of Vladimír Mečiar later the same year. Consequently, in 1995 Slovakia obtained “The White Paper,” to assist the associated countries to adopt the necessary requirements. (Mayhew, 1998, p. 32) The paper articulated the steps, definitions, and the treatment of the standards necessary for the entrance to the west. The goal of each country was a successful transformation of economies and societies into the democratic stage acceptable and equivalent to the European standards.

In election in 2006 the government of Mikuláš Dzurinda was replaced by Róbert Fico, the leader of political party *SMER – sociálna demokracia* (transl. Direction – social democracy). The government consisted of social democrats from SMER-SD, ultra-nationalist party *Slovenská Národná Strana* (SNS; transl. Slovak National Party), and Mečiar’s *Hnutie za Demokratické Slovensko* (HZDS; transl. Movement for a Democratic Slovakia). This government was characterized by several reforms including the healthcare. Negatively perceived was the Press Act from 2008 which broaden existing conflicts between the journalists and the government. During this period the controversial person, who will be later discussed with regards to the lawsuits against the media, Štefan Harabin as the Minister of Justice, tried to abolish the Special Court and the Office of the Special Prosecutor. He also dismissed seven presidents of regional and distinct courts.

In following elections in 2010 the new government of Iveta Radičová came into power. It was the right-wing government consisted of liberal conservative party *Slovenská Demokratická a Kresťanská Únia – Demokratická Strana* (SDKÚ-DS; transl. Slovak democratic and Cristian union – democratic party), right-wing liberal party *Sloboda a Solidarita* (SaS; transl. Freedom and Solidarity) , conservative right-wing *Kresťanské demokratické Hnutie* (KDH; transl. Cristian Democratic Movement), and ethics Hungarian right-wing party *MOST-HÍD* (transl. Bridge). This government lasted from 8th July 2010 to 4th of April 2012. The government collapsed as a result of failing ratification of the EU bailout. During the short governing they modified the Press Act and thus increased the degree of freedom of expression. In the following elections the government of Róbert Fico was re-elected and exists until the present days. SMER- SD is the only party of the current coalition.

Characteristic feature of the successful democracy is that communist party no longer exists, dominant part of production and market is privately owned and the market is a dominant coordinator of the economic activities. (Jakubowicz, 2007, p.53) The Slovakian eventual status is related to the Jakubowicz characterization but there is a need to examine whether the processes ensured the well-being and prosperity of the whole country or whether they were rather manipulated for the private profit. Slovakia had very little previous democratic

experiences and the legacy of communism left the country with enormous distrust to political leaders and erosion of morality in the public private sphere. (Wolchik, 1991, p. 202) The transformation reached the democracy, but as Vladimir Tismaneanu argues, “One issue that stands out of the region’s countries is the problem of their unmastered totalitarian past. It has proven to be formidable obstacle against establishing a lasting connection between democracy, memory and civic activism.” (2014, p. 649) The society is yet after 25 years unstable and the communistic past influences the events in the present.

1.2.2 Freedom of expression as a fundamental right guaranteed by the Slovak constitution

In Slovakia the existence of fundamental rights and freedoms are articulated and protected by the constitution based on the international treaties and conventions. These were primarily expressed by the Constitutional act No.23/1991 Coll., introducing the Charter of Fundamental Right and Freedoms. The text of the charter signed by Czech and Slovak federative assembly was transferred into the Constitution No. 460/1992 Coll. which was the first constitution of the sovereign Slovak Republic. The constitution text is the reaction from the former focus on state to focus on individuals, therefore, the importance is on the citizens being respected by the power. The text declares, “All human beings are free and equal in dignity and in rights.” (Kindlová, Voermans, Kortmann, & Fleuren, 2006, p. 37) The first constitution was characterized by the high number of faults, especially when it came to “solving situations that arose from political crises.” (Hrubala, Mathernová, Pirošík, & Procházka, 2002, p. 115) Since the original text, there have been several changes applied with 12 amendments of the original document form 1992 to 2014 which were accredited and signed by both president and the chairman of the National Council. The initial changes were in the hectic age of political development realized as ad hoc amendments. Until the most significant faults were corrected in 2001 as an extensive document to the 1992 constitution.

The Slovak Constitution in article 26 declares; (1) “freedom of expression as guaranteed to everyone”. Followed by closer definition in (2) section; “every citizen has right to express themselves in words, writing, print, images or by other means, and to seek, receive and impart ideas and information regardless of frontiers. Issuing press is not subject to authorization. Business in the field of radio and television can bind to permit the state.” According to section (3); “Censorship is prohibited.” This might be restricted as articulated in section (4); “Freedom of expression and the right to seek and disseminate information may be restricted by law, if it

is in a democratic society for the protection of the rights and freedoms of others, national security, public order, public health and morals.” (Slovak Const. art. XXVI, § 1-4)

Chapter two article 11 declares that international human treaties ratified by Slovak Republic take precedence over Slovak laws. (Jones, 1998, p. 33)

The fundamental rights and freedoms are articulated in chapter 2 of the Slovak Constitution. The wording is contradictory to the original treaty and because the Universal declaration differs between human rights and fundamental freedoms it might create problems. It is identified as one of the fails of the constitutions. (Kusý, 2002, p. 116) The Slovak second chapter is criticized for the wrong wording which makes it difficult to distinguish between human rights and fundamental freedoms, the chapter is called “Fundamental Rights and Freedoms.” The wording makes confused understanding of the difference between the rights and the freedoms. This as many others fails were gradually discovered while revising the constitutional text before the entrance to the EU.

1.2.3 Journalism and the media

Concept of freedom of expression was before 1989 modified by the Press Act strongly. The mass informational sources had a significant function – serving the socialistic society. The periodicals could be only owned by the community ownership not as the private business because of the recognized importance as an informational and educational tool. The private ownership of the newspapers, as it was seen in the capitalistic society, was criticized for the business revenues. According to the socialistic principles, to ensure freedom of expression, rights of citizens, and basic function of the media – information dissemination, the state has the main and only responsibility. Therefore, the private owners were prohibited. On the one hand, the Press Act guaranteed dissemination of periodicals as the important assumption of free speech. On the other hand, the act articulated the exception of banning the traffic according to the Post Act 222/1946 Coll. (Šefčák, 1999, p. 115) If the press would break the rules then the traffic could be prohibited, which was an indirect obstacle of the press freedom.

After the revolution, there were several attempts to ensure the media and journalists will contribute to gradual building of the democratic society. However, the expectation of political performance in the media perpetuated. Andrew K. Milton refers to the media transformation as to “consistent effort of political actors to exploit the institutional connection of state, government, and/or political parties to the news media.” (2001, p. 512) Transition process was based on informational nature of the communication institutions. Therefore, the emphasis on

the free media which adequately inform the citizens in democratic society was relevant. Nevertheless, the political expectations of the media functions were to support the political scene not to be antithetical. The period of social change was mainly characterized by the lack of trust for democratic processes and the ability to effectively solve the problem. The role of the media was important because of the raising issues and providing alternative viewpoints (Milton, 2001, pp. 496-498). The criticism of the journalism was mainly connected to lack of professionalization and objectivity. It was difficult to replace generation of journalists conditioned over decades to support the party line with a new generation who had fact-based reporting skills and investigative zeal. (Aumente, 1999, p. 80) Andrej Školkey argues that, the absent of journalistic professionals contributed to the collapse of the Czechoslovak federation. (1998, p. 1)

The quality of journalism was connected to the profit rather than objectivity and true nature of the profession. The market was not anymore under the strict control of communistic party and emphasized on sensational information and criticism of the previous regime. The former institution were lacking the control over the ethical principles, because that time any control would be criticized as a new form of censorship. Journalistic arena was full of opposing views. As Školkey argues, there were two major groups of journalists, “the one who were simply opportunist, and those who admired person of Vladimír Mečiar as the democratic leader. Some were patriots and nationalists, other used this to cover their underdeveloped political skills and for some it was an easy way for getting or keeping the jobs.” (Školkey, 1998, p.5) The period after the revolution was considered as the crisis of Slovakia’s public media. (Fule & Mistríková, 2002, p. 481)

On the one hand, the media could benefit from segregation from communist party and abolition of censorship, on the other hand, the efforts of politicians to retain some degree of control perpetuated. (Milton, 2001, p. 494) All media laws including the Press Act were not entirely changed but rather supplemented with additional paragraphs modifying original rights and obligations. The political officials were lacking the trust of the public and this fact affected the manner of publishing certain stories related to politics. The journalists published information often without proper crosscheck of the sources. Many journalists were dismissed from the occupation and new working staff had very little experiences with populism and objectivity. The history affected to the big extent relationship between the officials and the journalists and perpetuates until the present days.

Currently, there is a different line of the media control. Their autonomy is connected to the business and market. Václav Štetka argues, “Their former political dependence was often

quickly replaced by dependence on the market, imposing new form of control and constraints on their autonomy and democratic performance.” (2012, p. 434) Media as other industries in the country were quickly privatized and were later characterized by entering of the foreign investors. Štetka furthermore argues about significant diagonal and horizontal concentration in the sector. The numbers of newspapers declined and ownership reduced because of “the aggressive market strategies.” (2013, p.3)

The purpose of free expression declared by the constitution is to enable the truth, autonomy, and the democracy. These principles are the manifest of freedom of expression as argued by (Lichtenberg, 1999, p.106; National commission for free expression in Norway, 1999, p.27-33; Warburton, 2009, p.3-10) The aim is to enlarge the citizens with information they need for the education, opinion forming, and for choices of the democratic leaders. The main source of information is provided via media. Because media use free expression they should be protected (Zeno-Zencovich, 2008, p.6) and as free expression are to be used responsibly. The concept of free expression as well as existence of journalism is based on truth. The correlation between truth has ground on the concept of emerging the truth from its collision of truth and half-truth (Warburton, 2009, p. 22) and on Mill’s human fallibility argument, which declares all humans are fallible, therefore no one can suppress any opinion in the society. (In Warburton, 2009, p.26) The journalists are messengers of the truth and the society requires them to provide impartial and honest information based on reliable facts. Only truthful messages can positively influenced the debate and form the opinions which are crucial for functioning democracy.

Many argue, the media should be free because they provide for the democracy. Slavko Splichal emphasizes that for fully developed civil society, there are two kind of human rights which need protection. First of all, those related to the integrity, autonomy, and personality of the individual; and secondly, those related to freedom of communication. Mass media are essential for democracy and their protection and independence should be maintained. (1999, p. 4) Furthermore, while discussing democracy, the term public sphere often appears. Public sphere is an open and autonomous arena for public debate, where free citizens discuss openly without constraints the matters of public life. Mass media nowadays create the public sphere, therefore, should be protected because they ensure the citizens have the information. (McQuail, 2010, p. 179)

1.2.4 Journalistic associations

The existence of journalistic organizations is meaningful for increasing the level of professionalism, protection, and education of the journalists. The history of association began in 1919 when the Slovak and the Czech journalists established Syndicate of Czechoslovak Daily Press of around hundred members. (Serafinová & Vatrál, 2005, p. 84) As the war began, the association disappeared and was later replaced by Slovak Union of Journalists in 1940 with 181 members. Renewed Czechoslovakia was not built on previous democratic principles but the communist movements. This period was characteristic for the purification of all sector including the association. Each journalists had to be verified and many were excluded from the union. Czech and Slovak journalists were united in the Central Union of journalists and the membership was mandatory until 1948. In 1968 the Central institution was replaced by single Union of Czech and Slovak journalists. This perpetuated until the revolution in 1989. In 1990 the independent and professional journalistic organization was created. The Syndicate of Slovak Journalists (SSN) and exists until the present days.

1.2.4.1 Slovak Syndicate of Journalists.

The SSN was authorized as a non-profit professional organization, independent from political or ideological effects. (Serafinová & Vatrál, 2005, p. 154) The significance of the establishment is seen as a step towards protection of the free speech, free information dissemination, also to shelter the members, and professional interests. During the first congress of the Syndicate, the Journalists' Code of Ethics was approved. The Code was building on the global, European, and domestic principles to protect the journalists and the media environment.

1.2.4.2 Press Council

The Slovak Syndicate of Journalists together with Slovak Association of Periodical Press Publishers established civic organization – the Association for the protection of journalists' ethics in Slovak Republic. The association emerged as the need to control journalistic ethics in 2001. The leading body of the organization is the Press Council. The Council has seven members from the areas of cultural, political, and social life. Members do not work as a journalists and cannot represent any political party. There are elected for tenure from two, four to six years. The members of the Press Council deciding upon the complaints of contraventions of the Code of Ethics. The council conclude the verdicts of the cases in three

possible steps: concern, warning, or rebuke. The council does not decide upon financial compensation.

1.2.5 Slovak laws related to journalism

With previous communist history, the effort of formerly controlled media remained in the post-communistic countries. It is argued, the politicians retain some degree of control over the media, which in Slovakia could be seen in the media related legislation. Milton argues, the news media control by contemporary political actors and manipulation is similar to those of communism, Nazi, and earlier nationalists. (2001, p.495) The countries of former communistic regime have developed their societies with the legacy of former experiences of suppression of the media content. Media laws were soon after the revolution added with democratic paragraphs stating the possible existence of plural media system which means the coexistence of the private and the public media sectors. The fast transformation did not provide enough time to construct and properly articulate the new legislation. In Slovakia the former Press Law continued with the original text until 2008. Slovakia looked to the Western Europe for models of the media laws. Most likely the French model was accepted because of the position of the Supreme National Council as the main broadcasting authority which allowed continuous control over the broadcasting. (Aumente, 1999, p. 87)

1.2.5.1 Press Act No. 167/2008 Coll.

The law is a replacement of the 42 year old forerunner, communist press law No. 81/1966 Coll. and No. 136/1991Coll. The act articulates the right and obligations of the publishers of periodicals; and the rights and obligations of the press agencies in gathering and disseminating the information. Also the right and duties of person exercising the right to repair, the right to reply, and the right to additional notice in the periodical press and news agencies. The act amendment modified the records of periodical and imposition of the penalties for violation of obligations established by the former law. The act was approved by the National Council on 9th April 2008.

The period of adoption raised a nationwide protests organized by the journalists, editors, and the publishers. The protest resulted in publishing the blank front pages on all national newspapers stating 'The seven sins of the press act.' The summarized sins criticized the Press Act in seven points. Print media especially disagreed with the right to repair and the right to reply, where the politicians and government had an ability to use the right which was perceived

as the violation of freedom of expression. (“ODPOVEĎ” [ANSWER], 2008, para.3) The proposed draft by the government of Robert Fico was passed by the parliament. As the prime minister stated, this was done to protect right to privacy and to prevent producing nonsense and false information. (Augustín, 2008) The opposition primarily feared with editorial autonomy affected by the expected replies and corrections even from politicians that can thus gain publicity, and by chilling effect which could appear as a result of the new law. (Belakova, 2013, p. 198) Iveta Radičová summarizes three points of the defects of the Press Law: concern of right to reply, where the claimant could request a reply regardless of truth; the sanctions towards the media; and the ability of politicians and public officials to request the reply and the correction. (Belakova & Radičová, 2013, p.1)

The Law was changed by the Radičová’s government in 2011. Among the most significant changes were the restrictions on right to reply and repair imposed on public officials, also the penalty for breach of condition of the act was overridden. The amendment caused the rules were less striker and the rank of free speech increased. Pavol Múdry evaluated the new law as compatible with the European media legislation. (In “Tlačový zákon bude jemnejší” [Press Act will be softer], 2011)

1.2.5.2 Slovak media and defamation

The country has the laws which correspond with international standards, but as Valková from Slovak Syndicate of Journalists states, “Slovakia do not have sense to use them properly, we need to modify Criminal Code, which would set a court frames of the amount of damages in civil litigation.” (In SITA, 2013, para.3) Among the most recognized obstacles of journalism in Slovakia are the devastating penalties, economic pressures, and the level of education. Róbert Kotian from Slovak Syndicate of Journalists indicates limits which are interconnected to economic and political interests of the owners of the media and their political representation. (In Stoláriková, 2013, para.2) Slovakia has from the CEE countries the highest charges for defamation with ceiling of eight years in prison and devastating penalties with often overreach the financial compensation awarded for homicide. Defamation according to the Slovak legislation can be considered as civil wrong according to a Simple Offence Act No. 372/1990 Coll. In this case the court deciding upon awarding the single fine of certain amount. Another case is when defamation is considered as an infringement of individual rights according to Civil Code – Act No. 40/1964 Coll. The court determine the amount for non-pecuniary damage in the form of apology or financial compensation.

International Press Institute refers to the issue as follows: non-pecuniary damage is not measurable, often excessively high, especially with regards to journalists' salaries. Since the amount for damage depend particularly on the court decision, they might be abused, intended to punish speaker instead of compensating the real emotional harm or suffer. "Outrageous claims by plaintiff might cause a chilling effect." ("Out of balance: Defamation law in the EU," n.d., para. 1-2) The last approach to defamation in Slovak jurisprudence is when defamation is considered a crime according Offence act No. 372/1990 Coll. Here, the decision vary according to the damage caused, from 2 up to 8 years in prison. This paragraph is a remnant of the communistic regime and many argue it should be removed.

1.2.6 The judiciary system of Slovak Republic

To understand how the judiciary works, this sub-part provides a short overview of the existing court system in the country. The knowledge shed a light on the lawsuits against the media.

The court system consist of the general and specialized courts, and the Constitutional court of the Slovak Republic. The general courts system are impartial and independent courts. The general judiciary is formed by the Supreme Court of the Slovak Republic and other courts namely, the district, and the county courts. There are 8 county and 54 districts courts. There is a two-stage judicial system. The distinct courts are responsible for the proceedings at the first stage. The county courts serve as the appeal tribunal. There is also Specialized Criminal Court.

1.2.6.1 Constitutional court

Milan Čič defines the Constitutional court as, "Sovereign mission of the Constitutional Court is to protect natural rights and freedoms of a man in a democratic rule of law, regardless of nationality, creed, religion, belief, race, social origin, and a status". (In "Ústavný súd Slovenskej republiky" [Constitutional court of Slovak Republic], n.d., para, 3)

This court is an independent judicial authority that protects constitutionality. Basic status of the court is determined by the constitutional act. The court was established on 1st January 1993 by the constitution of the first Slovak sovereign republic established on the same day.

1.2.6.2 Judiciary and free expression

To exercise the jurisdiction the democratic authorities appoint the judges. Judicial system was developing along the society, therefore, it reflects to the strengths and weaknesses of the system. The quality of democracy is connected to the quality of judicial system and relates to the overall processes within the scale of freedoms and limits posed by the individual countries. The judiciary was affected by the overall changes in the various areas. There has been two major periods of adjustment of the judicial system. To study the limits and freedoms of journalism, the crucial part of the research is to examine what are the actual limits and freedoms of law and jurisdiction. Several past cases served as the criticism of deficiency and impartiality of the court decisions. The court verdicts were seen to have deterrent effect for the media, journalists, and others who inform about the acts of public officials or politicians. (Wifling & Kovačechová, 2011) In last couple of years there have been numerous high devastating penalties awarded as the result of the litigation for defamation.

Judicial system was during communism limited by the communist party and served as the government tool to practise the power and the persuasive methods. Judiciary had weakest position in the communist Czechoslovakia (Brörtl, 2003, p. 143) and the quality of the former institution was influenced also by low requirements of only one year of practise to apply for the position. Reputation of the judiciary was affected by the totalitarian regime and in some cases persist into the present. As Baranova argues, “they taught the judges everything, except the essence of being the judge – how to be free, independent, self-aware and non-corrupt, and to follow the law.” (In Brörtl, 2003, p. 143)

1.2.6.3 Judiciary after 2004

The changes of judicial system with regards to European Union were connected to integrating the standards posed by the European Commission. The international demands emphasized on the free and independent judicial system that makes correct substantive decisions according to the constitutional text and the international treaties. The reform of judicial system forced creation of the judicial code No.385/2000 Coll. This law had no previous predecessor and was formulated as the demand of the European Union. Under former article 145 (1) of the constitution the judges were elected by National council for four years, on the proposal from the government, elected judges for life. The president and vice-president of the Supreme Article 145 section 2 states, the court were elected by the National Council and from

the all judges of the Supreme Court for a period of five years. (Kindlová et al., 2006, p. 32) The 2001 amendment article 145 changed the length of the appointment for life by the President of Slovak Republic on the bases of proposal of the judicial council. The amendment aimed to support independence of the function and impartiality and fairness of the court decisions.

1.3 Chapter summary

The introductory chapter revealed the main aim of the study. The first part described the objectives and the research questions to understand the significance of the research. The second part provided more detailed background. It contained a brief overview of democratic and journalistic historical cornerstones to provide complex knowledge about the country. This was done to approximate the reader to the current situation. To understand the research aim, one should comprehend the basis on which country and informational sources have developed. The country historical experience affected every single area including judiciary, political scene, and the media which rely on each other within one system. The chapter revealed some of the main theories which will be closely explained in the next chapter.

CHAPTER TWO

THEORETICAL FRAMEWORK

2.0 Introduction

This chapter provides theoretical framework considered as the most relevant for this type of study. The theoretical background has numerous functions for the research. For instance, it can justify the methodological choice used in the research; in the late stage of the research it can be essential for representing the conducted data, and it can serve as scheme for representing the findings. (Bradbury-Jones, Taylor, & Herber, 2014, p. 135)

The chapter has three main parts covering freedom of expression and the media freedom, and is organized as follows: section 2.1 examines the arguments for freedom of expression and the limitations; section 2.2 discusses freedom of the press, media freedom and the role of media in public debate according to public sphere theory of Jürgen Habermas; section 2.3 talks about journalism, how journalism correspond to democracy and what are the responsibilities and rights of journalists, the section provide particular discussion on objectivity, truthfulness, professionalism, privacy and ethics of the occupation; the chapter ends with section 2.4 the summary of the theoretical framework.

2.1.1 Freedom of expression

As Voltaire expressed: “I despise what you say, but will defend to the death your right to say it.” (In Warbutron, 2009, p. 1) The free expression leads to the possibilities for one to be exposed to the information, provides access to a variety of the ideas, or opinions, which would include even the contrasting ones that may be politically or morally offensive. The right to free expression as summarized by Helge Rønning is, “The statements and depictions that are controversial must come in open.” (2009, p. 18) Freedom of expression is not mandatorily peaceful. In a free society the offensive opinions are as valid as complementary ones. Civilization should accept the acclamation as well as offending opinions in order to provide voice for all within the mass. Judith Lichtenberg summarizes two main principle of free speech as non-interference and multiplicity. (1990, p. 107) The first principle refers to no censorship, where people can express themselves without any restrictions. The second principle refers to variety of expressions under the condition of free speech. The only purpose when the individuals might be restricted over the civilized community is to prevent harm to others, but

according to Mill, “even the personal or moral good of the individual who would restrict the free speech is not sufficient reason for abridging the concept.” (Mill, 2011, p. 78) The overall flourishing of the society under the constant criticism by particular groups or individuals to the system has more value than restricting contradictory opinions. Ulf Petäjä recognizes three dimension of free expression, ‘consequentialist’ or ‘non-consequentialist’ based on whether freedom of expression has particular value; as for instance, tolerance, because it could be a consequence of it; or the second which consider free speech as a right; as for instance, the right of individual to be autonomous. The second dimension is related to “what freedom of expression is said to promote or benefit.” The last dimension is named ‘subject emphasis,’ where the focus is on which parties can benefit from the freedom of expression. (2009, p. 25) The three dimensions show how freedom of expression could be promoted, and refer not just to the individuals and their rights, but it is overall freedom based on consequences, meanings, and subjects of the society. Freedom of expression is complex philosophy which is around us and which as many argue should be protected. It is declared basic human right also according to the Universal declaration of human rights. (United Nations, art. 19)

2.1.2 Main arguments for freedom of speech

With regards to the aforementioned theoretical comprehension of the free expression, this sub-part discusses three main arguments. The truth, democracy, and autonomy are essential for the concept and provide the universal defence. Each argument is given reasoning of several authors to make clear understanding of the knowledge.

2.1.2.1 Truth emerging from free expression

“Preserving freedom of speech maximizes the chance of truth emerging from its collision of error and half-truth.” (Warburton, 2009, p.22) The opinions varies and in order to discover the truth, there should not be any suppression of ideas. Lichtenberg argues that, every person is likely to discover the truth and they should not be limited because as she states, “There is no way of telling in advance from where the good idea will come.” (1990, p. 111) The society is full of knowledgeable ideas which are around us and can contribute to broadening the knowledge and our understanding of the world. Therefore, the value of free expression is according to Petäjä, “The promotion of diversity of truths which circulate in the society.” (2009, p. 24) Another significant contribution to truth as a condition of free speech is Mill’s fallibility argument. Warburton summarizes Mill’s fallibility argument as a condition that assumes

infallibility of others. According to the argument, one can decide to silence others “when is absolutely certain that they are correct on the matter.” (In Warburton, 2009, p.26) For instance, Mill gives an example of authorities that might suppress opinion they do not like, and he sees a risk that any idea might be truth and so to deny any expression is not infallible. (Mill, 2011, p.85) The Norwegian national commission for Unesco argues that, fallibility of our nature could be minimized, “by investigating the matters and by listening to each other,” so there could be different views expressed and thus, “one can acquire more well-founded opinions.” (1999, p.27) Furthermore Lichtenberg argues, “There is never complete safety the truth tested by public will prevail the error, but it is still the best known mean to correct the mistakes.” (1990, p. 34)

2.1.2.2 Autonomy and free speech

The autonomy as an argument of free expression is the ability to think for yourself and express your thoughts to others. Lichtenberg argues, “Autonomy requires free speech because of the close connection between thought and language.” (1990, p.108) In order to exist as an autonomous individual, one needs to be granted availability to think freely and to speak freely; also to listen to others thought and opinions. Warburton also points to fact that humans might not know what they think precisely unless they express and discuss their opinion with others and that ideas are developed by discussing with those who agree and disagree on what is being said. (2009, p.7)

Humans are able to think for themselves, but there is also some preconditions that needs to be provided to ensure the knowledge can be tested and compared. Ronald Dworkin as summarized by the Norwegian commission seeks his standpoint in the equality principle. (1999, p.29) The existence of equality is achieved when the society provides the education for all citizens. When this is ensured the human beings are capable of making rational choices. Furthermore, Petäjä summarizes Scanlon’s arguments that, “The state should not limit individuals’ autonomy without having compelling reason; and the state should be limited to regulate expressions because any suppression would be violation of someone’s autonomy.” His second argument deals with reliability which is “a prerequisite of individual’s autonomy.” This means that if the person knows about the future judgment according to the statement provided, one would rather choose to have a reliable and a good argument. The argument furthermore states, “Diversity and heterogeneity of the flow of ideas stimulate our ability to think and act autonomously and rationally.” (2009, p.29)

2.1.2.3 Democracy as the principle for the free speech

Warburton refers to the free speech as “to a particular value of democracy.” (Warburton, p. 3) The initial struggle of freedom of expression was based on the political suppression and the tyranny of the political rulers. Press freedom, freedom to print, and disseminate the information were strongly controlled by the state power. One of the first demands of John Stuart Mill with regards to the free speech was the election of the power. As he argued, “by election process, the people could choose their own representatives, so they could be identifiable by the people.” (Mill, 2011, p.71) The election process is the ground for the democracy and thus the democracy and free speech relates to each other to the big extent. Norwegian commission argues, “There must be public access to major social processes, power must be given a face.” (1999, p. 31) Democracy is based on fully informed citizens who make “intelligent political choices.” (Lichtenberg, p.110) Petäjä argues, “Freedom of speech is essential for democracy.” He summarize Meiklejohn argument where the idea of sovereignty and right of self-determination are enjoyed by citizens. The government is servant for people who give the mandate to chosen representatives. (2009, p.27) Citizens needs to be able to rule, but in order to rule they need to be informed. Therefore, free flow of information within the concept of free expression is the ground for well-functioning democracy. Furthermore, if the democracy laws and regulations are adopted by the democratic process, this process cannot be valid when government prevent anyone of expressing their opinions about law and regulation. If the law and regulation and the government are to be valid, then all citizens must be allowed to express their views and whether they agree or disagree with their government and its decisions. (Rønning, 2009, p.18)

2.1.3 When freedom needs to be limited

Freedom of expression as any other right is based on individuals’ responsibility and it has certain limits. In order to enable society to flourish, there are certain constraints when harm of other would have negative impact on well-being. Based on Mill’s harm principle the individuals are free to the extent they harm other people. (In Warburton, 2009, p.22) Freedom of expression relates to responsibility to prevent violence. Mill agreed that violence as a result of free speech should not be considered as appropriate. Offensive statements and violence relate to each other because offensiveness can lead to violence. Therefore, moral responsibility and free speech should be both considered together to prevent developing any form of expression into the violence. Many legal systems have certain limitations according to the harm principle

established in the constitutions. Universal convention of Human Rights also consider limits of free speech with regards to human dignity and privacy as articulated in article 29 paragraph (2) To exercise rights and freedoms, everyone shall be subject only to such limitations as are determined by the law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society. (United Nation, n.d.) The European democratic state systems recognize document of Universal declaration and, therefore, constitutions across the Europe have accepted similar amendments.

2.2 Media and free expression

This sub-part discusses media freedom and independence. First of all, the part builds on freedom of press argumentation and the correlation with freedom of speech. Secondly, the media importance in the communication processes together with media independence is examined based on the theory of public sphere by Jürgen Habermas together with Jakubowicz arguments. The aim is to provide broader comprehension of how media serve the communication processes and the humanity; and how effectiveness of the informational sources could be increased while existing without constraints.

2.2.1 Freedom of speech and freedom of press correlation

One of the first defenders of freedom of the press, John Milton, wrote in his speech to government called *Areopagitica* on the book suppression, “It will be primarily discouragement of all learnings...blunting our abilities in what we already know, hindering and cropping discovery that might be yet further made.” (1644, p.3) He fought against a prior censorship and his work influenced many later defenders of abolition of the censorship. Current advocates on freedom of the press refers to the degree of democracy while looking for reasons of how free press relates to free expression.

“The conceptual difference between freedom of expression and freedom of the press are clear enough. The first refer to the substance of a freedom; the latter is its container.” (Zencovich, 2008, p.6) Freedom of speech can be manifested through free press and free media which provide as informational tool for the citizens. Moreover, the citizens are informed and make rational choices for democracy. Thus democracy and free media relates to each other very closely. The media system mirrors the social structure and they are closely related to the degree of the services that provides for the democracy. Based on the free expression the media which

are free also liberate the communication processes and because of their pluralism they can “remove the restriction on the horizon of possible communication.” (Habermas, 1989, p.321) As Zeno-Zencovich argues, “free expression is guaranteed and because it uses certain media, this media are to be protected.” (2008, p.6) The concepts were often considered within the same context of freedoms and limits and because press freedom can exist only when free expression is not inhibited. If there would be interference in one of those principles the overall freedoms and democracy cannot be maintained. Furthermore, Christopher Meyers argues, “Free press plays the role in sustaining democratic life,” and in the event of the government intruding the free speech, press cannot be free and democratic values are undermined. (2010, pp. 40-44)

Protecting the media freedom contributes to the public forum which is a place for expressing variety of opinions and living divergent ways of lives. However, modern democratic government takes a role while regulating the press. One of the arguments of Lichtenberg discusses freedom of speech as a positive right. People can access the media and receive the information and the role of the government is to secure these rights for people. One of the consequences argues that, “The government must intervene to secure these right,” because “positive intervention is better than non-interference.” By securing the rights, the truth and fairness which are results of free speech can emerge. The part of the government is thus to ensure the media provide information important for debate in the society. (1990, p.67) From the media perspective as Lippmann refers to, the truth component and responsibility of the media are those which are crucial for the system to function. He sees democratic system as unworkable when those having a control over the information content abuse and determine by their own conscience what shall be reported. (Lippmann, 1995, 13) The trustworthiness of the information is then replaced with disloyalty and corruption. Media has similarly as government responsibility for the society. The truth is disputable and is serving as the ground for the both, democracy and reliability of the media system.

2.2.2 Jürgen Habermas – public sphere

This sub-part briefly discusses Jurgen Habermas’s public sphere and the transformation of the public sphere until the contemporary age of mass media communication. The section is important for understanding the significance of the media role for the communication processes; and for how the free media give an account to impartial, various, and accessible information. The second part discuss dimensions of the media independence, summarized by Jakubowicz (2007), which is closely related to the public sphere. The goal of the theoretical background of

Habermas's and Jakubowicz's theories is to create understanding of current need for media freedoms to ensure the public debate.

The media free the communication process and allow the public sphere to emerge, they establish the messages which are removed from space and time. (Outhwaite & Habermas, 1996, p. 321) The authors explain the media importance within our communication processes and the creation of the public sphere. The media blur any restrictions of communication because they are not limited by the content or access to the information. Simultaneously, as conditional to their independence they provide free information dissemination. The public sphere is characterized as a space which provides more or less autonomous and open arena or forum where "public debate with free access, freedoms of assembly, association and expression are guaranteed." (McQuail, 2010, p. 179) In the most influential work, Jürgen Habermas defines the communication process within the civil society and the relationship between the state institution and the citizens. (1989) According to the theory, the public communication plays an important role in ensuring the diversity as well as for providing a vital channels of communication and control between people and their rulers. (Christians, 2009, p. 8) The classical model interprets the public sphere as autonomous from state and the market. (Jakubowicz, 2007, p. 32) This sphere is created as a consequence of communication between these institutions and thus it is a space for citizens and their critical discussion about the issues, needs and identities. According to public sphere theory mass media must be kept free from the "pressure of the political and other functional elites." (Outhwaite & Habermas, 1996, p. 217)

The history of the public sphere reaches to the 18-19 centuries the culture of coffee houses where the citizens discussed the matters of political life and governmental issues. (McQuail, 2010, p.180) Although, the Habermas discusses the beginning of the public sphere with more historical ground, looking to the Greeks and the *polis*. (1989, p. 3) The public debate was usually realized as the private conversation within a small-scale media. As the media grow into a big conglomerates they began to be an inseparable part of the communication system; they have significantly changed the communication processes within the sphere. In addition, having an independent desire for a greater democratic influence the people needed to know what the state was doing or failing to do. (Outhwaite & Habermas, 1996, p.7) With the broadening of the media system the public sphere has changed. Habermas refers to the era of the media impact as to "the colonization of the public sphere," this being done by the market imperatives. All thoughts are now under the press of the media stakeholders and their endeavour for the higher revenues. (McQuail, 2010, p. 180) Habermas later criticized manipulation of the public sphere and public opinion because of the political process that split between small

numbers of candidates, and where the public opinion is about critical judgment and control. (In Outhwaite & Habermas, 1996, p.8)

The media arrange the public sphere and enlarge the space for the debate, circulation of the information and ideas, interconnection of the citizens and governments. They furthermore mobilize the information, challenge the monopoly of government over the politics, and extend freedom and diversity. (McQuail, 2010, p. 181) The public sphere is determined by the existence of mass media and the Habermas and Peters later define the current public sphere as “the multi-layered complexity,” and that the transformation of the sphere is determined by the mediated world. (In Benson, 2009, p. 181)

The public sphere theory emphasizes on quantity and quality of the message outcome where in the free environment the better argument can prevail in the quest of social consensus. (Benson, 2008) The task of freeing the press from business and government ideologies is hard to achieve in the democratic countries. One of the identified shortcomings of changing of the public sphere is the growing manipulation, as the author of the public sphere argues, “the press itself being manipulable to the extent that it became commercialized.” (Habermas, 1989, p. 185) He emphasizes on the autonomy from both the state and the market, which in order to provide space for the public debate needs to be freed from both pressures. Therefore, the participants in the communication processes should be aware of the significance of the free information dissemination which is underlined by the free expression in the public sphere and independence of the mass media and their actions. The importance of the media is free and responsible information that can provide enough argumentation for the citizens in the democratic society.

2.2.3 Dimensions of media independence

Karol Jakubowicz summarizes three dimensions of media independence:

1. External independence is the freedom to operate media outlets without unjustified legal, political and administrative interference or restraint. It is freedom of the owners and their media organization to operate free from external pressure or interference by public authorities, governments...
2. Internal independence is the freedom of editors and journalists from interference posed by the owners, publishers and managers.
3. Personal/professional independence is characterized as the impartiality and detachment in the performance of journalistic duties from political, social and economic interests. This independence strongly poses on personal limits that could be strengthened by the professionalization and by following the ethic codes. (Jakubowicz, 2007, p.33)

With regards to the dimensions on which the media should be considered free, the structural variation within the media world and society has to be taken into consideration. The freedoms

on the particular levels could be contradictory but their interconnections for the function of the communication system in the public sphere is meaningful. The media institutions has to be independent on all levels in order to provide benefits for the public sphere. When the autonomy of the media is ensured, it can further serve for the democracy. As Benson summarizes, “The self-regulating media must maintain the independence vis-à-vis its environments while linking political communication with both civil and political centre” and additionally he argues, “Civic society must empower citizens to participate in and to respond to a public discourse that in turn must not generate into colonizing mode of communication.” (Benson, 2009, p.182)

The first dimension discuss the freedom to exist and operate without government or authorities’ interference. This means the existence of the media that can operate in the legal pace. The laws and policies in the media system should provide the free and negotiable arena for independent communication institutions. Each democratic country should has the media laws which can determine media existence and the extent to which the government can influence the media existence.

The second independence is connected to the freedom of the editors and the journalists. The journalists should be free from the pressure of the media owners. If the society demands the objective information, than the information messengers cannot be limited by the publisher or owners of the particular media.

The last dimension of Jakubowicz’s independence is related to the personal stage of journalism. This point is based on the personal autonomy and the self-limitation which could be strengthened by the ethical consideration, education, and professional approach. The journalists pose the limits and freedoms for themselves according to what degree is one detached from the political and economic interests.

2.3 How journalism provide for democracy, main values and functions

The democracy and the journalism relates to each other in the manner of supporting arguments. The democracy allows the quality of journalism providing the freedoms and inhibiting the censorship, while the good journalism supports and validate the democracy. This sub-part discusses the main responsibility of journalism with regards to democracy. Beginning with watch dog function, objectivity, truthfulness, professionalism up to discussing privacy and public interest. The last part examines negative effects of legal rights on the informational sources resulting in chilling effects.

2.3.1 Watch dog function of journalism

Among the most important aspects underlining the significance of the current journalism is the ability to expose wrongdoers. (Foreman, 2010, p. 9) It is one of the most significant function the journalism is fulfilling in the society. The main aim of journalism is to inform, present opinion, entertain, and regulate. (Eisenman, 1996, para.2) Furthermore, Meyer summarizes James Curran's five needs of democracy that media should fulfil as: representation, deliberation, conflict resolution, accountability, and information dissemination. (Meyers, 2010, p. 41) The watch dog function is a regulative function of the media. The regulation means the identifying the variety of current societal problems, providing a comment and propose the actions. To allow the watch dog barking, there needs to be freedom of the press so the journalists have ability to inform the citizens. This function relates to the democratic situation and where the journalists act as the mediator between citizens and politicians within the system. In such an arrangement the journalists often understand themselves as "defenders and as independent forces for the common good." (Youm, 2009, p. 8) In democratic arrangement the special attention is on the correctness and matters of competency. The government is controlled by the media which constantly provide critical review and public control over the state decisions. Furthermore, the journalists have the mandate of truthfulness of their information which is backed up by the multiple sources.

As Jacquette sum up with regards to the watch dog function:

In free society no public official should believe that his or her action cannot be scrutinized and reported on to the general public, for the good of the free functioning society and no journalist should believe that his or her reporting will not be carefully scrutinized and checked for truth or falsehood by other journalists and public members. (Jacquette, 2007, p. 23)

Based on the assumption, those that have the power have the tendency to abuse it, there is a urgency for the constant questioning of the institutions and the reasoning of the actions and decisions. Nonetheless, the correctness of the public scrutiny over the government and other institution could be criticized. It is a choice of the journalist to which investigation will be addressed and which problem will be discussed, and reported as the news story. As Alan Barth from Washington Post observes, "if you want a watchdog to warn you of intruders, you must put up with a certain amount of mistaken barking." (Knowlton, Reader, & Ceppos, 2009, p. 43) What is relevant to a particular task depends generally on its purpose, but the journalists might choose to emphasize to some particular aspects of the new story. (Jacquette, 2007, p.23)

2.3.2 Journalism and right to privacy

The right to privacy is an important factor for journalistic occupation in term of ethical and legitimate approach. The demands for solving privacy issues were initiated as a topic for discussion after the invention of the high speed newspapers presses and halftone processes which enabled the existence of paparazzi. (Knowlton, Reader, & Ceppos, 2009, p.24) In the free democratic society the press freedom and the public's right to know are crucial. Media often deliver information about the government and the public events, giving the voters and the citizens the necessary information. The right to know includes information about government, but also the right to monitor and inspect candidates, officials, debates, and businesses. (LaMay, 2003, p. 75) In the society, there are particular groups having extended privacy, as for instance, vulnerable young people and children. On the other hand, there are the categories of people exposed to the public interest and their privacy is less protected. The reasons are usually the occupation, work, or business that might be related to the area of public interest. The right to privacy might be related to principle of seeking the truth and minimizing the harm. (Foreman, 2010, p. 230) It has a value as the ethical norm but it is also a part of a legal system. The protection of the privacy is given a strong emphasize especially in the European context. In every European media legislation the right to information and freedom of expression are weighed against an individual's right to privacy and reputation. Each country has individually articulated laws and specific judgment on particular cases related to free expression and right to privacy. The Slovak constitution following the international standards has the protection of the honour, privacy, and reputation articulated by Article 19, paragraph 1. There are two main types of human dignity one can distinguish between. The honour is used when referring to the internal honour, and the term reputation when referring to the external honour. (Borvik, 2004, p. 12) When the right to privacy is violated it often leads to defamation. Defamation is the form of word or deed. In the media world the term has the conventional placement because of law protection and significant position weighed against free expression. Jacquette outlines the main arguments for protection of the right to privacy as: "(1) foundation and protection of moral freedom, (2) presupposition of respect for persons as morally valuable ends in themselves, and (3) a requirement for personal happiness and avoidance of anxiety and discomfort." (2007, p. 179) According to his summary it could be argued the right to privacy has significant value anchored in every human.

2.3.3 Public interest

Public interest is based on legitimacy of the people to seek the information. It is one of the most serious situations, when journalists have to decide about releasing the information that people who are involved in would rather prefer to keep private. The line between public right to know and individuals' privacy is sensitive. Therefore, each of the cases requires specific approach. First of all, the journalists' decisions about delivering the information depend upon "a courage in seeking information and reporting while being compassionate to those covered by the story." (Foreman, 2010, p.230) Secondly, there are legal limits which journalists need to be aware of to avoid any negative consequences. They should know about how to follow the ethical norms and the law rules. Ethical awareness supported by the law acquaintance is essential to prevent harm while invading someone's privacy in the name of public interest. Public interest should not be used as an excuse to invade the privacy but each information needs to be properly considered.

2.3.4 The line between privacy and public interest

Right to privacy and freedom of speech are both declared by European Convention of Human Rights in article 10 and 8 respectively. These rights exist with certain limitation and their relativism is subject to several conditions, as for instance, national security, public safety, prevention of crimes, or respect and protection of health and morals. (Rozakis, 2010, p. 295) The paragraph 2 of article 10 articulates the respect of a private life and a reputation of others which poses the strong emphasis on circumstances within the free democratic society. The conflicting area between right to privacy and public's right to know is always fulfilled by the media organized fight for free expression and individuals protecting their right to privacy. (Jørgensen, 2009, p.67) Safeguarding the two often clashing rights differs from country to country and it is usually determined by the court which deserves to shelter according to the individual case. Oluf Jørgensen defines the crucial cornerstones of the European Court of Human Rights decision processes, where the general attention is on whether the report followed the standards of a good journalism and to what extent the person whose privacy has been violated have had potential chance to protect himself or herself. (2009, p. 67) Both ideas and the line between them are based on the certain limitations. Freedom of expression is allowed to the extent it can harm someone else. According to Warburton, "the kind of freedom of speech worth wanting is freedom to express your views at appropriate times, in appropriate places, not freedom to speak at any time that suits you." (2009, p. 9) Freedom of speech is thus determined

by the purpose to provide valuable debate within the society. But as Jørgensen argues, “An individual right to privacy cannot stand in the way of publicizing conditions that are of significance to the community.” (2009, p.67) To protect the community and avoid the harm the decisions about releasing sensitive information protects the common good. The special situations might be connected to protecting of the health or the environment, therefore, it is responsible to publicize them. Vincenzo Zeno-Zencovich refers to the right to be informed as to the right which has an obligation to protect the citizens. Therefore the state intervention is allowed. The focus is on the effectiveness of this right together with a consequences (2008, p.117)

2.3.5 Ethics and journalism

To explain and understand journalistic behaviour based on ethics the different approaches needs to be discussed. Kant and Mill are two most recognisable contributors to ethics. These approaches differ to the big extent. While Kant refer to reasons and rationality, Mill discuss greatest happiness principle for greatest number of people. He does not refer to rationality but to pleasure. Kant discuss ethics as related to respect for the person as a human being, the significant part of his approach is based on ethical decisions in order to avoid negative consequences of the actions and to avoid harm of others. He argues about categorical imperative where he suggest we should make ethical decisions as we are creating laws or rules that everyone should follow. (In Smith & Goodwin, 2008, p. 30) Human choice according to Kant is a choice that can indeed be affected but not determined by impulses, therefore is not pure but partly determined by action of the will. He distinguish between positive and negative concept of freedom. Ethical behaviour by Mill is based on the happiness principle. The difference in approach is placed on awareness of consequences of the actions. (In Smith, 2008, p. 28) The actions are judged according to amount of happiness one can produce. Foreman summarizes the theories as the end-based thinking. (2008, p.78) Each person is permitted to make the choices between the ethical principles. The flexibility of the individuals is a significant strength and at the same time the biggest weakness. The main criticism of the end-based theory is unlikelihood of predicting the results. (Smith, 2008, p.29)

Ethical consideration with regards to the journalistic profession has been part of discussion since the beginning of the “yellow press.” The first construction of ethical codes for ethical consideration appeared as a consequence of sensationalism. (Ward, 2009, p. 297) There are several reasons why the ethics are important for journalism. The main could be connected to

the morals of individuals, the other to the credibility of the news production. These are affiliated not only to the theoretical ground of the ethic but are significant for practical side of the professionalism on the institutional level. Generally, in a democratic arrangements the journalists are not the subject to an enforceable ethical codes. (Foreman, 2010, p.6) Ethics are moral rights to be followed and are based on wrongs and rights of human conduct. (Belsey & Chadwick, 1992, p. 10) The free press guaranteed by the law contributes to the ethics as to the right of individual protected by morality of the society. Press freedom as the concept is the universal ethical principle in itself. (Splichal, 2002, p. 5) The interrelation of the ethics and the press freedom are based on dignity and moral sovereignty of the individuals. (Kant, 2007, p. 49) Jacquette discusses term professional ethics which is based on professionalism and moral responsibility of the journalists because they are gathering information and reporting news, then disseminate them to all people equally, therefore, they have an important implication for society. (2007, p.10)

Ethical behaviour refers to the several areas which are articulated in the Codes of Ethics. Those are complex and discusses the rights and responsibilities of the people engaged in transmitting the information within the public sphere. Among the most recognisable demands of journalistic ethics are truth, objectivity, professionalization and autonomy which are listed and examined in Dale Jacquette (2007). The demands are discussed in the following part of this research.

2.3.5.1 Journalistic professionalization and autonomy

Shudson and Anderson summarize several features according to which the professionalization could be measured: work based on systematic knowledge, formal education, self-governing associations, and code of ethics, relationships of trust between professional and clients, licencing, and widely recognized social status. (2009, p.89) Those are individually recognized by different regions and do not serve as the universal traits. As Hallin and Mancini (2004, p.34) argue, the differences among the level of professionalization vary in the media systems. In the Eastern Europe which Slovakia is a part of, the media system is characterized by some noticeable peculiarities caused by the previous communistic regime. To recognize the degree of professionalization one needs to understand and examine the environment in which media exist and develop. Jacquette points to the biggest dilemma of professionals serving as a good and profitable enterprise without compromising the quality of the content. (2007, p.64) The current journalism in the countries across the world is known for a little autonomy because

the working life being navigated through the system of economic and business revenues. The autonomy does not have strong ability to emerge because of the intervention of the business tycoons into the media enterprises and where the public opinion becoming the form of elite-to-elite communication. (Štetka, 2013, p. 25)

The Slovak case of professionals appeared in the context of rapid social change where government strived to have some degree of control over the media. The existence of media businesses caused absence of professionals. The journalistic job was either understood as springboard to careers or as a low paid freelance job without almost any working contract. (Fulle & Mistríková, 2002, p. 487) The standardization of media and publishers environment was to some extent adapted before the entry to the EU. The reason was to adjust private incomes and increase reliability of the media which could be acceptable for international environment. The need for professionalism was also appreciated more and more by journalists themselves, to avoid mistakes that can lead to defamation cases resulting in high damages or even imprisonment. (Jakubowicz, 2007, p. 353)

2.3.5.2 Truth seeking and objectivity in journalism

Freedom of the press contrast with the requirements to avoid false and inaccurate information but because the liberty is experimental freedom of expression include the right to be in the error. (Jacquette, 2007, p.21) In the democratic society when the error is discovered, the journalists are obliged to correct them publicly. The media are responsible to provide honest, impartial and reliable information which can make the democracy function properly. When the errors prevail the media risk own credibility by confirming they are fallible. (Foreman, 2010, p.8) This cause the journalists focusing on reliability and explaining the evidence more precisely. The journalistic truth begins with process of “assembling and verifying the facts.” (Jacquette, 2007, p. 19) The facts that are valid could provide citizens with correct information on a particular topic. Professional journalism has mandate of truth telling principles where journalists are “morally committed to maximally relevant truth telling in the public interest.” (Jacquette, 2007, p. 19) The objectivity and truth telling being challenged in the contemporary societies from several angles of political groups, economic influences, organizations, procedural and professional influences and reference groups. (Hanitzsch & Mellado, 2011, p. 406-407) News as a commodity succeeds in the marketplace when it satisfies the public. The sufficient operating costs in state of free expression makes it extremely difficult to separate media financial interest from the public’s legitimate news interest. Another criticism is

according to Smith the impossible position journalists are placed in. On the one hand, they are required to fight injustice which situate them to a position of watch dog. On the other hand, they are obliged to be non-judgemental and not represent any opinions but be objective. (2008, p. 38) The truth begins by sorting out the facts, and preferably, provide the story with analysis of the individual procedures that built up the story. The objectivity is according to journalists the limit of the truth seeking because of stating the surface facts without analysis does not provide the judgment. (Foreman, p.90) Another criticism of truthful news was underlined by the Walter Lippman on the American example where he wrote, "The current theory of newspaperdom is that an abstraction like the truth and grace like fairness must be sacrificed whenever anyone thinks the necessities of civilization require the sacrifice." (Lippmann, 1995, p.11) The truth in the modern media is not always on the first place. The factors that exceed the truth are related to the national interest excuses and the interest of media owners.

2.4 Negative effects of limited freedom of speech in journalism

This sub-part discusses the chilling effect which is one of the results of an indirect limits of free expression. The legislation might cause negative consequences because of the chill the media which manifest free expression.

2.4.1 Chilling effect

The journalistic limitations are posed by the particular society within they exist. What is the function of journalism and how is the journalism expected to contribute to democracy is articulated in the media and press laws. Gibbons argues, "Few libertarian systems recognize journalistic freedoms as such, although some scholars argue for legal rules to protect freedom of practising journalists against the media owners." (In Youm, 2009, p. 279) Each country has set of laws aimed to protect free expression as institutional freedom; and to control content of inappropriate messages which might appear as a result of free speech. Journalists are directly affected by laws regarding free speech and press; also indirectly by series of laws as for instance, the defamation laws. The chilling effect is the result of government actions and laws, which as Youn states, "Creates consequence that deters individual from exercising expressing rights." (Youn, 2013, p. 1471) However, these effects are not direct, but rather develop when the person avoids taking actions because of possible consequences.

The role of the free media is to watch and to criticize the government, pointing to their weaknesses and strengths. In a countries worldwide the issue of free speech in the media is

often related to defamation as a consequence of invading someone's privacy. Each person has the right to be protected by law, but simultaneously, there are a groups of people who need to endure higher threshold of criticism. In the case of defamation the court can award financial compensation. Duncan gives example of U.S. where, if the court impose high costs than from the media perspective it could be seen as the chilling effect on the free expression. (Bloy, 2006, pp. 38-43) Media inform the citizens about public officials and can reveal sensitive information causing damage of reputation of the involved person. The court decides according to legislation whether the conflict is the matter of public interest and degree of the damage of the person's life. While deciding upon punitive compensation the amount needs to be properly justified and should not exceed the tolerable rate. If the amount is too high, or awarded to people who work in the public sector it can lead to fear of penalization of the groups or individuals. Therefore, chilling effect is a serious threat for free expression and should not be overlooked in the society when free speech is legally achieved.

2.5 Chapter summary

This chapter provided the main theoretical background. The first part discussed freedom of expression together with three main arguments. Democracy, autonomy and truth were considered as the cornerstones for understanding of the concept. The second part examined freedom of the press, historical background, and the modern media freedom comprehension. The role of the free media was discussed in the light of Jürgen Habermas theory of the public sphere. The theory choice can be justified through the argument of media freedom and independence which contribute to the vital debate within the public sphere. The sub-part focused on the media independence which is significant for information dissemination and quality of the information likewise. The last theoretical part focused on journalism together with the rights and responsibilities. The part consisted of several sections where ethics were discussed together with the truth, objectivity, professionalism, and the privacy. The aim was to provide understanding of the main rights, responsibilities, and obstacles of the current journalism. Discussing each part brought wider understanding of weaknesses and strengths and actual demands posed on those working for the informational resources. The chapter was essential for understanding the aim of the study and provided knowledgeable basis on which the results and the main findings can be discussed. The next chapter will provide information about methodology.

CHAPTER THREE

METHODOLOGY

3.0 Introduction

This chapter provides information about methodology used in the research and has seven main parts which are organized as follows: section 3.1 discuss methodology choice; section 3.2 present types of interview design; section 3.3 review ethical consideration and informed consent; section 3.4 conceptualizing of the interviews, discussion of choosing, addressing the respondents, and transcribing process; section 3.5 talks about analysis stage and data coding; section 3.6 discuss trustworthiness of the study; section 3.7 ends with the chapter summary.

3.1 Qualitative research design

Carol M. Roberts explains the methodology choice as resting on “the problem to be investigated, purpose of the study, theory base, and nature of the data.” (2010, p. 141) The selected method of qualitative interviews was relevant for the capability to provide in-depth information which are crucial for the researcher to understand studied phenomenon. Also to have examples and experiences of the respondents which one can fulfil the blank spaces of understanding the phenomena from literature or theoretical authors and make the relevant connections. (Kvale & Brinkmann, 2009, p. 1) The respondents’ age varies and some of the interviewees were older professionals who experienced the previous regime and transformation of the state in the nineties. To make older people more understandable to the younger (Rubin & Rubin, 2005, p. 5) is also the premise of appropriate method choice.

The interviews examine the people and their judgments, relationships, and opinions on the studied topic. The strong advantage is the subjects’ examination in the natural environment which increases the probability of the truthfulness of the answers.

“In an interview conversation, the researcher asks about and listens to, what people themselves tell about their lived worlds. The interviewer listens to their dreams, fears, and hopes.” (Kvale & Brinkmann, 2009, p. 1) The interviews as the method were chosen for the ability to learn and to understand the studied topic from the researcher’s perspective. The purpose of the interviews is to derive interpretations, not facts or laws, from respondent talk. (Warren, 2002, p. 84) Standardized form of survey would not be suitable because of the need

for in depth information. The research could be limited by quantitative methods, since they do not tell the story with complexity and richness that make the research realistic. (Rubin& Rubin, 2005, p.2) In addition, the thesis studied freedom of speech as a social phenomenon, the focus was on depth and detailed information supported by strong long-term literature review.

3.2 Types of interview design

This sub-part provides knowledge about two types of interviews used in the research. Firstly, in-depth interview are discussed. Secondly, the focus is on the elite interviews. All interviews were in-depth but three additional respondents were considered with special approach because they were identified as the experts in the field.

3.2.1 In-depth interview

“Crafting the good interview means learning and listening, it provides great advantages but also the issues arising from ethics.” (Johnson, 2002, p. 105) Interview design is important factor but as Steinar Kvale and Svend Brinkmann note, “the standard rules for the research interviewing do not exist and different interview forms will provide with different kind of knowledge.” (2009, p.148) In-depth interview type was selected because it seeks to uncover deep information underlined by knowledge, experiences, and perceptions of the respondents.

“Depth interviews involves learning enough of the history or context so one can be able to understand and put together separate pieces into one unit of meaningful way.” (Rubin & Rubin, 130) Johnson compare in-depth interview to friendly conversation but “the difference between friendly intimate conversation and research method is in the pragmatic purpose of the conversation.” (Johnson, 2001, p.105) Some argue, in-depth interviews could not stand alone as the only method and are usually just a part of a bigger methodology complex. However, the justification of the research purpose, trustworthiness of the interview design, and the validity of the interview process makes it possible to construct the study when qualitative interview is a sole procedure.

3.2.2 Interview with elites

George Moyser defines the purpose of the elite interviews as, “The use of interviews to study those at the ‘top’ of stratification system.” (2006, p. 85) He further defines elites as someone who is expert in the field because of particular experiences which empower to

fruitfully comment on events and interpret the evidence. This type of interviews being criticized for lacking reliability and validity because of the wide variety of open-ended questions. Nonetheless, preparing for interview with preliminary notes can help to avoid bias of the researcher. (Berry, 2002, p. 679) The three respondents were considered as very important characters and thinkers in the media business, legislation, and ethics. Therefore, they required specific approach and preparation. Each of the additional interviews has individual team guide which was adjusted to the interviewed person and the profession. The purpose was to support the knowledge conducted from the interviews with journalists. The study considered the experts as unbiased source of information because they are not employed as the journalist but have a wide knowledge about the media world from a different perspectives.

3.3 Ethical consideration

“Research ethics is a complex set of values, standards, and institutional schemes that help constitute and regulate scientific activity.” (National committee for research ethics in Norway, 2006, p. 5) Ethical consideration was according to Norwegian standards reported at the early stage of the research process to ombudsman for research ethics. It was mandatory to report the research before investigation. In this case researcher is required to think in advance of ethical issues which can arise during the research work. (Kvale & Brinkmann, 2009, p.63) Professional and institutional regulation was maintained throughout all research stages and ethical guidelines of Norway served as the manual while conducting the scientific data. According to individual and institutional morality, guidelines refer to individuals and the person of the researcher but as well to other bodies which can be affected by the research in the line of research consequences. (National committee for research ethics in Norway, 2006, p. 5) Accordingly, the research was as a complex study with regards to ethics on all stages and with consequentialist approach. Professional ethical codes as stressed by Kvale and Brinkmann, “serve as context for reflection on the specific ethical decisions throughout an interview inquiry.” (2009, p. 66) In order to bring new insight into the studied topic, emphasize on the truth seeking and producing valuable knowledge from informants, the ethical consideration had an important position in the research.

3.3.1 Informed consent

“Entails informing the research participant about the overall purpose of the investigation and the main features of the design, as well as any possible risks and benefits form participation in

the research project.” (Kvale & Brinkmann, 2009, p.112) For good and valuable finding, the variety of journalists from several national newspapers and journals were asked to participate. Before actual interview took place, the recipients were asked to read free informed consent. For the consent see appendix VII. All recipients instructed about the purpose of the research and the rights of participants. The rights were to read the answers in the form of transcripts, comment on them, and to withdraw provided information from thesis at any time without justifying the reasons of the action. It also contained knowledge about confidentiality and access to data material. Respondents were asked to sign the written agreement after reading the consent.

3.4 Conceptualizing the interviews

The choice of the method was guided by the research questions. There has been three research questions posed and to each one the hypothesis was assigned. In order to answer the research question and to develop the hypothesis the interview guides were prepared before conducting the actual interviews “to understand themes of the subjects’ lived world and to follow intention of the semi-structured design.” (Kvale & Brinkmann, 2009, p.3) This interview design is neither an open conversation nor a highly structured questionnaires. (Kvale, 1996, p. 27) Articulating the questions within a semi-structured design ensure some extent of control over what type of information is produced. (Hollway & Jefferson, 2008, p.302) The interview questions were designed within a three groups representing the three research questions. Each group contains four to five questions. The first group was related to the main obstacles of free expression, the second to the right to privacy, and the third to the ethical guidelines and ethical awareness. Each of the questions were structured according to the reviewed literature and to the research questions. Rubin and Rubin model of tree and branch structure was followed. (1995, p.145) Each part began with main questions to guide the conversation and follow up questions. (Warren, 2001, p. 87) The interview questions were open-ended, providing enough time and space for the answer. The main intention was not to get answers on all questions, but to understand the topic. If the respondent was not comfortable with the questions the focus moved to narrow down the bulk of the questions just to develop the hypothesis and answer the research question. The aim was to ask the most questions to each of the interviewees, the river-and-channel model, to understand theme well, deeply and with details to examine other themes in order to find out more. (Rubin & Rubin, 1995, 146)

3.4.1 Choosing the interviewees

To make one research credible the respondent should be experienced and have first-hand knowledge about the research problem. (Rubin & Rubin, 2005, p. 64) The inquiry of the master thesis was to examine the lived world experiences with freedom of expression in the practise of journalistic occupation. In order to do so, the journalists became the crucial target for the study. The aim was to examine journalists writing online and offline articles and working solely for the press. In the Slovak Republic there is currently available around 100 different titles of newspapers, journals and magazines, two press agencies, and numerous web-news portals. To narrow down the sample, only the mainstream and tabloid newspapers and journals with nationwide coverage were selected. The aim was to draw the sample of those that has the biggest possibility to come across the free speech issues and the assumption according to former knowledge about the topic was the mainstream and tabloid media are those coping with legal norms of speech and expression the most. The thesis focused on relevant experiences to make the results convincing. (Rubin & Rubin, 2005, p.65) Therefore, the area of the interest was properly justified. The radio and TV journalists were excluded since the thesis focus on the press law and defamation cases only with regards to the print media, moreover the bulk of the general population would make it impossible to sample because of the length and size of this dissertation. To reach the acceptable level of generalizability the print was the only population. The list of potential respondents was created and addressing began with regards to this selection. The aim was to gather one respondent representing one periodical with maximum of fifteen. The number of interviewees was adjusted to the bulk and goal of the research following Kvale and his statement, "Interview as many subject as necessary to find out what you need to know." (1996, p. 101) The final number of the respondents from newspapers was 13, providing wide variety of represented periodical. For the list of respondents and the list of periodicals see appendices I and II. In two cases, there were two journalists representing the same daily. This was done to increase the balance between the tabloid and mainstream papers, also to increase number of respondents. Among the interviewees were also two press agencies, the public and the private one.

3.4.2 Additional interview with the field experts

Additionally, the study involved three interviews with experts of freedom of expression, law, and ethics. Firstly, to cover freedom of speech issue in the media the Slovak committee for International Press Institute – IPI Slovensko was addressed. Secondly, to help to understand

the Slovak legislation and issues concerning right to privacy and defamation a member of non-profit organisation VIA IURIS was asked to answer the questions. This organisation often provide consultation and assistance for journalists. Lastly, a chairman of the Press Council responsible for deciding upon ethical complaints joined the session during the interview process. The names of the interviewees were: Pavol Múdry – chairman of the board IPI Slovakia; Eva Kovačechová – advocate cooperating and member of non-profit organisation VIA IURIS; and Július Lörin – chairman of the Press Council.

3.4.3 Addressing the respondents

The researcher credibility was ensured by the fact the research was reported to the research ombudsman in Norway and it could provide the project description and details in the form of official request for participation together with the informed consent. While addressing the respondent the researcher attention was to provide all information at the initial email or phone conversation. Firstly, the editorial offices were contacted via email, where the details about the project and the researcher were provided. The success of gaining enough respondents through official emails was very low. Usually, the inbox emails being reviewed by different persons and often, they do not reply on the emails from students, because this is not their interest. Secondly, the contact via Facebook where the majority of periodicals operate was also realized, but similarly, the number of responses was very low. Lastly, the journalists contact details on the websites was efficient way how to gather the potential respondents. There were experienced more positive responses via phone than via email. Because the initial conversations were with respondents were not effective during the first interview the snowball method was applied. This helped to gain enough respondent and the good recommendation from the colleagues caused the people were willing to answer.

3.4.5 Snowball sampling method

The majority of the respondents were recruited by snowball sampling method. “Snowball is using a small pool of initial respondents to nominate others who meet the eligibility criteria for the study.” (Morgan, 2008, p. 816) This method being criticized for “uneasy line between replicable and representative research” but can provide the great benefits when population is uneasy to access. (Atkinson & Flint, 2003, p. 275) It has been recognized, the journalists are one of the busiest professions and has very little extra time for someone they do not know, but one good friendly reference can change this fact.

This method was recognized as the most efficient technique to find the respondents. Usually, the question about contacts was posed at the end of each interview and it was experienced the respondents were willing to help. In some cases the respondents called to the other potential respondents themselves, or provided all necessary contact details. The respondents were asked about particular media to follow initial plan and representation of the print media.

3.4.6 Recording interviews

The standard recording device available on an android mobile phone was used. As mentioned earlier, all interviews were in-depth, which means close to friend conversation based on intimacy, where deep information can be gathered. (Johnson, 2001, p. 104) The choice of the place for recording was thus very important. The majority of the respondents chose the place they like to go in the free time – the cafés they feel comfortable. These places might be as well noisy and full of disturbing elements that can affect the quality of interviews. Therefore, the use of good recording device was appreciated because: “it frees interviewer to concentrate on the topic.” (Kvale & Brinkmann, 2009, p.179) Before turning on the recording device the purpose of the study was repeated, the respondents were asked to read request for participation and to sign the informed consent. For the request and the consent see appendix VII. During the recording process the pen and paper were used to capture additional ideas and main points of the information. Audio recordings were immediately after the interviews transformed into the laptop, protected by password, to ensure the security of the conducted material.

3.4.7 Transcribing the interviews

“The interview is an evolving face-to-face conversation between two persons; in a transcription, the conversational interaction between two physically present persons becomes abstracted and fixed in a written form.” (Kvale and Brinkmann, 2009, p. 177) The process of the transcription was considered before the actual interview process began. Interview questions were structured to ensure the average length of interview for no more than 30 minutes. Overall 12 of 16 interviews were recorded, the rest were answered by email. Each of interviews resulted in four to six pages of transcribed material. While transcribing, additional ideas were captured in the memo files, which can help the researcher to suggest relevant literature that can be used during the analysis stage, also when articulating concept and themes for the coding process.

(Rubin & Rubin, 2005, p.205) The transcripts together with notes taken during the interview and the memos were used as the ground for the coding stage.

3.5 Analysis and coding of qualitative interviews

“The analysis of the transcribed interviews is a continuation of the conversation that started in the interview situation, unfolding its horizon of possible meanings.” (Kvale & Brinkmann, 2009, p.193) The authors of the quote emphasize on analysis within the social context which means taking into consideration the whole original discourse not just recorded statements. The analysis is an extended technique which does not stop when the recording device is turned off. The role of the researcher in qualitative analysis, as characterized by Michèle Lamont and Patricia White, is to tell the story from their perspective by identifying themes and looking for specific characteristics of the speakers, the aim is to reveal existence of certain themes, absence of others and reveal hidden context. (2009, p. 28)

This section explains the plan for data analysis and choice of method for coding. The study contains the qualitative data, therefore the method of analysis is adjusted to the type of data. This means how themes will be identified and which method will be used for coding and identifying the patterns. The research aims to answer three research question, therefore the analysis follow certain structure to provide more systematic knowledge. In line of researching there were hypothesis assigned to each question. To identify the meaning, the text is separated into parts in which the structured codes were identified. To access reliability of data analysis and coding, the individual parts were explained in detail to maintain the clearness of the research analysis.

3.5.1 Analysis based on three research questions

The aim of the study was to answer three research questions. The research questions stands as the main questions thus analysis will be accessed individually. The questions were structured separately but their theoretical interconnection is noticeable and thus the material conducted from the interviews might overlap to some extent. To make clear connections the first decision was to approach to each question separately, then evaluate interconnections of data in the final analysis and discussion. The first question explored the main obstacles of freedom of expression identified by the Slovak journalists. The second question related to the right to privacy and conflicts with the public interest and the last question aimed to discover ethical consideration of journalists.

3.5.2 Hypothesis development in qualitative research

To keep the structure of the research on all stages, each question was followed by the hypothesis. However, Annette Lareau argues, the concept of hypothesis might distort the process of qualitative work. (2012, p.672) The usage of variable and hypothesis will be used not for quantitative measurement but rather to follow systematic structure while coding and presenting the data. Ralph LaRossa wrote about such an approach that it helps researcher to engage in dimensionalizing while coding; also the goal of qualitative research is based on hypothesis development rather than hypothesis testing. (LaRossa, 2012, p. 683) This form of hypothesizing in terms of qualitative research creates a new dimensions while looking for the patterns while analysing the data. The goal was to develop three hypothesis with regards to rich qualitative material where connections to research questions and theory helped to develop meanings and new dimensions.

3.5.3 Preparation for coding process

Interview process resulted in 16 Word files full of rich knowledge and information on the studied phenomena. As mentioned in the previous part, while taking interview the notes were written on the separate papers. These memos together with transcripts served as the ground for coding material. To make initial coding easier the transcripts were printed and marked by numbers. Each respondent was assigned the number saved in the computer file. These numbers served as the identification as well for protection of the data from misuse according to ethical standards requested confidentiality. Initial coding began with careful reading of the interview to ensure the overall ideas of the research will emerge.

3.5.4 Coding of qualitative interviews

To make actual analysis easier the data needed to be organized into the codes. “Coding involves attaching one or more keywords to a text segment.” (Kvale & Brinkmann, 2009, p. 202) While articulating the codes Rubin and Rubin recognition manual was followed. In recognition stage the researcher is looking for “concepts, themes, events and topical markers.” (2005, p.207) The recognition ensured the wide variety of codes to emerge because it focused on four components. The analysis was supplied by the evaluation of the data units.

The concept is a word or term that represent idea important for research; themes are summary statements and explanations of what is going on; events are occurrences that have taken place; and topical markers

represents names of places, people, organizations, numbers – such as dates, addresses or legislative bills – or public laws. (Rubin & Rubin, 2005, p.207)

The Word program was used to write down and record the recognition data. Each document is assigned to one research question. The documents are named the Coding Sheets 1, 2 and 3. Each sheet was assigned to one research question and was filled out individually. At the end of the process all materials were copied into the singular file for the final coding. “Coding involves systematic labelling of concepts, themes, events and topical markers so that you can easily retrieve and examine all data units that refer to the same subject across all your interviews.” (Rubin & Rubin, 2005, p.207) The authors refer to the code as to a distinct label for four components of recognition stage and so that relationship between the codes is called coding structure, this structure should match the main aim of the project.

3.5.5 Analysing of coded data

The analysis were completed in two stages. Firstly, the analysis consisted of work on narrative and created the description. Secondly, the literature was used to help to interpret descriptions and narratives from the first stage. Coding resulted in systematically structured file with all codes articulated and hierarchically labelled based on the meaning. The next step was to summarize and group particular concept and themes around the events and the stories which prevailed in the series of events from interviews. (Rubin & Rubin, 2005, 224) In this step, the codes were systematically compared for similarities, differences, and for patterns between them. All data units of the same codes were copied into one file with the main summary in the form of description. This was done to see overall idea represented by the same code. Later, summaries were reviewed with regards to background characteristic of interviewees. (Rubin & Rubin, 2005, 226) As mentioned earlier, there were two major groups of journalists represented by the mainstream and tabloid periodicals. With regards to this fact, the focus was on possible differences between the answers from the two groups. Further, the codes were combined analysed to synthesize different version of the same event. (Rubin & Rubin, p.227) To build narrative from the 16 interviews where different people has different opinions and experiences was very useful to weight their responses to see how they relate and differ from each other. The last stage of creating the proper description was to check for credibility and accuracy. The text was reviewed with regards to the initial thoughts and evaluated together with results from the first stage of analysis.

Next step of analysis implied existing theory. Kvale and Brinkmann refer to this type of analysis as to theoretical reading where “the reader reflect theoretically on specific themes of interest.” (2009, p.235) Likewise, Rubin and Rubin refer to building toward theory where they state how findings can possibly extend and modify existing theory. Considering findings with relationship to theory can reach standards for valid research. The theoretical framework was included as structured in chapter two and the main principles of freedom of speech, as well as to public sphere of Jürgen Habermas were considered.

3.6 Trustworthiness of the study

This section refers to the main objectives of the truthfulness of the research. Achieving the objectivity, validity, reliability and the generalizability with regards to the qualitative nature of the study is briefly discussed in order to ensure the readers how the objectives were maintained through the research process to the final parts of discussion and conclusion.

3.6.1 Objectivity

The qualitative interviews are often criticized for the subjective nature. Researcher intention is to take the negativity and see the strength of the subjectivity of the actual interviews. Kvale and Brinkmann argue, “The strength of the interviews is to capture multitudes of subjects’ view of a theme and to picture a manifold and controversial human world.” (2009, p.242) To make the research unbiased of the personal beliefs and experiences the decision was to focus on the conceptual frame of the study, existing literature to support the findings, and press on strong ethical consideration. Jerome Kirk and Marc L. Miller suggest two ways of increasing the objectivity in the qualitative methods: Report and describe all experiences such as they can be accessible and understandable for everyone; report meaningful and justifiable variables drawn from relevant theories. (1986, p. 14) The objectivity could be composed in two related parts and so it is a testing of the reliability, validity, and framing the objectivity.

3.6.2 Validity

Kvale underlines the importance of the three premises for the successful research under generally acceptable conditions. Valid refers to the truth and correctness of the statement. (Kvale, 1996, p. 73) The truth is the ability to avoid misuse, misunderstanding, and the personal attachment to the studied topic. Kir and Miller define the validity, as the extent to which the

research gives a correct answers. (p. 1986, p. 19) Consideration of all three factors was throughout the whole research taken into a strong consideration.

Validity in the qualitative research relates to descriptions and explanations and whether or not the descriptions fits the explanation. (Janesick, 2000, p.393) The qualitative study do not aim to one correct interpretation, or to one way of interpreting as in the quantitative methods. The important attention is taken into ethical consideration, especially to the respondents, which during the research might change, leave the area, and omit being part of the study. There are two types of validity, external and internal. The external is related to generalization of the findings while “internal validity cope with the degree to which findings correctly map the phenomenon in question.” (Guba & Lincoln, 1994, p.100) The research was according to the external and internal validity cross-checked. Internal validity challenge was handled by good respondent choice from variety of the newspapers, all three section of the research questions were backed by the interviews of freedom of speech expert, law expert and ethic expert. The long years of experiences and high objectivity of the information provided by three additional interviews make the research more trustworthy so that internal validity could be delivered.

3.6.3 Generalizability

Generalizability in the quantitative research is defined as “the degree to which findings are applicable to other population or samples.” (Ryan & Bernard, 2000, p.786) In qualitative research especially with regards to qualitative interview method the generalizability rest upon a few respondents which can cause difficulties in generalisation stage. It is problematic to generalize globally, therefore, Kvale and Brinkmann propose approach in where generalizability of produced knowledge might be transferred to other relevant situations. (2009, p.262) The generalizability could be achieved by providing rich descriptions together with argumentation and the judgment of the findings. The researcher is looking for similarities and differences providing generalization based on the theory. Yin proposes this approach as the analytical generalisation (2009, pp. 43-44) and the applicability to interview design was summarized by Kvale and Brinkmann. (2009, p.263)

3.6.4 Reliability

Reliability is the extent to which a measurement procedures yields the same answers however and whatever it is carried out. (Kir & Miller, 1986, p. 19) In other words it is a duplication under identical conditions (Kvale, 1997, p. 153) which as he argues is the part of

the general concept of validity. To make the reliability of the research there needs to be enough space for close descriptions of the individual steps of the preparation and conducting of the research. The clear formulation of the research questions and hypothesis, their justification in the theoretical part were the first steps taken under reliability consideration. This was followed by the method choice with consideration to the relevancy and interconnection to the research questions and the theory. The methodology part contains information about the choice of the interviewees, sampling, contacting the interviewees, the full interview questions and interview guide for the three supplementing interviews. For interview guides see appendices III, IV, V, and VI. Identification of the participants and clear description is necessary for the reliability.

3.7 Chapter summary

This chapter discussed the chronicle of the research methodology. It began with methodology justification, process of conducting interviews and the final stage of interview analysis. The first part discussed the methodology choice, the aim was to underline the importance of suitable method which can bring solid and valuable findings and their relation to the research questions. The second part outlined detailed description of structuring the qualitative interviews and types of interview design. Two types of interview design in-depth and elite interviews were closely evaluated. These kind of interviews models were determined by the purpose of the study and the types of the respondents. The third part discussed ethical consideration, which is significant part of the research because it gives information about ethical approach and the ethical codes. To increase the reliability and correctness of the study the ethical principles were important to discuss. The fourth part explained conceptualizing the interviews together with delineation of how the respondents were addressed and how the transcribing process was done. Detailed analysis of the transcribed material was provided in the section five. This part focused on understanding how coding and analysis was realized and by providing details about the analysis the reader can understand how and why the findings were identified and structured. Last part of this chapter examined all necessary components that were followed to ensure trustworthiness of the study. All revealed information have significant position for understanding the next chapter of findings and results.

CHAPTER FOUR

RESULTS AND MAIN FINDINGS OF THREE RESEARCH QUESTIONS

4.0 Introduction

This chapter provides results and main findings of three research questions and evaluates the hypothesis. The major data ground of the chapter were transcribed interviews and memos. The chapter combines existing theory, international and Slovak laws, and other documents relevant for the research. Sixteen people participated in the study and their most important statements are revealed together with explanations and additional theoretical review. All informants except one are identified by their real names and work place as they agreed by signing written agreement after reading the informed consent. Only one tabloid journalist decided to stay anonymous, this will be indicated while providing statement from the respondent in the relevant section. The chapter is organized as follows: section 4.1 discuss results from the first research question where the aim is to identify the main obstacles of journalists and to evaluate the current situation of press freedom on the country; section 4.2 review results from the second research question, right to privacy and reputation, the goal is to uncover limitation posed on journalists; section 4.3 talks about results from the third research question, where ethics, ethical, principles, and standards are examined; the chapter concludes with section 4.4 of the chapter summary.

4.1.1 Results of first research question: What do journalists see as the most significant obstacle(s) in terms of freedom of expression?

The Constitution of Slovak Republic declares in article 26 freedom of expression guaranteed to everyone. The freedom is not absolute but might be restricted by law in case of national security, public health, morals, protection of the rights, and freedom of others, as defined in section 4. State retains some degree of control over free speech because it has certain degree of responsibility to society and individuals as well as to itself. In the democratic society the free expression being enjoyed by citizens as well as government. People are free to disseminate and receive the information. The government is according to the principle of democracy and free speech legitimized by informed citizens who choose their representatives in the democratic election. The restrictions of free expression follows Mill's harm principle and argument that people should be free to the extent they harm others. (In Warburton, 2009, p.22)

Simultaneously, the free expression is widely enjoyed by the media which represent a variety of the informational sources. Beside several television channels and radio stations, there are numerous newspapers. Dozens of various titles of national, regional, mainstream, and tabloid press provide information for all types of the readers. They receive information from two press agencies, the private one known as SITA (Slovak information press agency), and the public one TASR (Press agency of Slovak Republic). The most positively perceived among the media is the recent Press Act amendment of 2011, by government of Iveta Radičová. She was the prime minister of short governing coalition lasted only from 8th July 2010 to 4th of April 2012. The government modified the Press Act, specifically, the right to reply which was positively perceived by many journalists and the media in general. The act has great impact on degree of press freedom in the country. The preparation of the act as well as other amendments of the legislation regarding the press and the media involves representatives of publishers and the media specialists. Hence, the state allows negotiation between publishers and the government on future competence of the communicational sources.

While asking the respondent about how they perceive freedom of expression today many said, “It is the best we have ever had, but it could be better.” Many remember the dark times of Vladimír Mečiar, the first prime minister of the Slovak Republic, whose name is known for initiation of dissolution of Czechoslovakia. He is as well notorious for serious economic and political cases that were never elucidated because of the amnesties he granted while being in the power. Many journalists provided examples of how journalists were threatened back then. With regards to the previous negative experiences the current situation is reaching European standards; however, many have recognized three obstacles. Those are oligarchisation, judiciary/legislation, and economics.

4.1.2 Obstacle number 1: Oligarchisation

Slovakia is currently characterized by entering the big financial groups into all sectors, including healthcare, business network, and the media likewise. “Oligarchisation highlights the question of the power; it basically claims that elites always dominates in the group.” (Bailer, Hertz & Leuffen, 2009, p.163) Oligarchisation is perceived negatively because it assumes the leaders might rather satisfy their own interests than interest of other people. Public in Slovakia perceive financial groups as unfairly originated businesses.

4.1.2.1 History of financial groups - voucher privatization

After the fall of communism the government had to cope with transformation of the society and the economics. The goal was to convert the state-owned property into the private hands. Therefore, all Eastern European countries run the process of privatization. Slovak privatization has been applied in three levels: small privatization from 1991 to 1993; big privatization – first wave 1991-1993, second wave from 1994 – until the present. Oligarchs and financial groups emerged mainly during the voucher privatization. It is a type of privatization where every citizens is given an opportunity to buy the vouchers that represented potential shares of the company. (Boycko, Shleifer, & Vishny, 1994, p. 251) People could buy so-called book of vouchers, one had value of 1000 Slovak crowns. They could chose to exchange the voucher for shares in the companies. The idea of privatization was to establish stock market to trade the shares. During the period from 1994 to 1998 the investment groups were buying the voucher books from people and investing them. The small groups of individuals grew into big financial groups. Their existence being often criticized for the origin at the expense of small stakeholders. Especially the media disapprove with their relationship with politicians which can purposively affect legislative amendments to favour these groups.

4.1.2.2 Media ownership concentration and freedom of speech

The last two years were characteristic for changes in the media ownership. There has been significant media concentration. The two biggest financial groups that engage also in the media businesses are *Penta Group* and *J&T*. The former entered media scene recently after purchasing several influential dailies. The latter has been in the media business for years as the owner of *TV JOJ* (before *Ta3*) which is the most watched television channel in the country. Oligarch Juraj Kmotrík and his *Grafobal Group* owns the TV channel *TA3* (before *TV JOJ*). *Hospodárske noviny*, influential economic daily in the country, is owned by one of the richest man in Slovakia, currently the minister of finance in the Czech Republic, Andrej Babiš.

The debate about their negative influence began especially after *Penta Group* in short period bought mainstream and tabloid newspapers with nationwide coverage, as for instance, publisher *7 Plus*, economic and financial weekly *Trend*, or publisher Pettit Press – daily *SME*. This launched the wave of criticism about the impact on freedom of speech and the opinion making processes. *Penta Group* has very negative reputation connected to the *Gorilla file*. It was one of the biggest political corruption scandals in the Slovak history which resulted in a

wave of national civil protests across the country. The file contained transcripts of the secret recordings where connection of politicians and financial group was strongly indicated. The case is still open and until the present days no one has taken criminal liability for the corruption revealed in the file.

Are journalists limited by their new owners? This was one of the questions posed during the interviews. Many journalists are concerned about the negative effects, the financial groups might have on freedom of speech. Peter Tkačenko from *Hospodárske noviny* (transl. *Economic news*) said, “The journalist might feel free about what to write, but it still resonates in the head. For instance, whether he should write about his boss, or if he would write, he can be too critical to prove something to others.” Similarly, Zuzana Petková, journalist from *Trend*, another influential economic and financial weekly, recently bought by *Penta* (100 % of shares) said, “Entry of *Penta* caused hysteria among the colleagues, there was an attempt to prove self-independence, paradoxically, there were more negative articles written about the *Penta* then before, which is not good because it does not mirror the reality the reader needs to see. The journalists rather solve their complexes through the negative and too critical articles.” The entry of financial group into media enterprises might be discussed in two lines. The first line is connected to not reflecting the reality as such, as mentioned above. The second line relates to the lack of investigative grounds which is undermined by the financial group and can result in self-censorship. Ľudmila Lacková from *Plus 7 dní*, (transl. *Plus 7 days*) tabloid magazine said about the financial groups, “Shortly after *Penta* entered our media, some of the contacts never answered the phone again.” She expressed the concern explaining that there will be soon very little investigation done on the financial groups and the areas where they operate. They engage in the variety of sectors and thus people who used to serve as the informational sources would step aside and cease the cooperation. The reason is corrupted system on all levels, where oligarchs owns a little bit of everything and where people would not feel free to inform because it could represent conflicts of certain interests.

The most scandalous case occurred after 50% of shares of daily *SME* (transl. *We are*) were sold to the *Penta*. *SME* was one of the most influential mainstream daily in the country. As a result majority of the journalists working for the daily left and found a new media platform today called *DenníkN* (transl. *Daily N*). Marek Vagovič from *.týždeň* (transl. *week*) refers to this act as follows: “They (oligarchs) significantly weakened the daily, which was very influential, even some of the investigated cases resonated in the society, and had significant impact on the political decisions likewise.” But he sees establishment of the new media platform positively saying, “By establishing the daily *DenníkN*, there is still enough space for professional

journalism.” Monika Tódová is now working for *DenníkN* and her reason to leave the previous job commented as, “My conscience did not let me stay.” She as many others left as the protest against the presence of the financial group. Journalists thus underlined the concern and began nationwide debate on the negative impact of oligarchisation on the society.

In the business world everyone has to own someone. Declared freedom of expression depends on personal independence to the big extent. Many of the respondents refer to their personal assessment to freedom and to the power of individuality. “Each journalist is free to the extent he wants personally assert his freedom,” said Daniel Vražda from *SME*, now *DenníkN*. He made further comment about the presence of the financial groups being perceived negatively. But he has not experienced any direct influence on the work.

Board chairman of IPI Slovakia Pavol Múdry does not see presence of the financial groups negatively. He talks about contemporary trend while saying, “Worldwide many reputable media being owned by big companies and financial groups, (giving example of Amazon purchased the Washington post), but not by pure media enterprises. This is continuously vanishing. Here it happened in a very short period of two years, when the crisis affected the media businesses, foreign publishers left and the domestic did not have enough resources... Then we will ask who the good entrepreneur is and who is not, but it is difficult to judge.” In his opinion the redactors should not interfere in the ownership of their media because as he said, “It is just the myth that owners influence the content of the media, but it isn’t truth.” Mr. Múdry is a founder of the private press agency SITA which he established together with other journalists after being removed from TASR during the era of Vladimír Mečiar. Some of the respondents agree with his statements and understand the media as an ordinary business. Silvia Láslopová from *Plus 1 deň* (transl. *Plus 1 day*) – the second biggest tabloid also owned by the Penta said, “When the new owners came to introduce themselves, we asked what will change and we were told to write as before. They did not express any desire for limitations or further changes.” Presence of oligarchs is perceived variously. Mostly investigative journalists from serious mainstream newspapers and journals express pessimistic views about the future situation; however, they never experienced anyone interfering in the content of the articles. Tabloids journalists understand the ownership of media as pure business which do not have any impact on their work. Owner is understood as the one making arrangement for the business strategy rather than the content of articles.

4.1.2.3 Negative impact of oligarchisation on judiciary

Eva Kovačechová, member of *VIA IURIS*, refers to oligarchisation as to “an absolute scandal” which might have negative effect on judiciary likewise. She specifies the negative effect of oligarchisation in two ways: direct and indirect. The direct effect is a corruption, however, as she argues, “No one have ever discovered how many percent of judges are corrupted, but everyone even from judicial environment claim that there is a corruption.” On the other hand, there is an indirect effect to which she expresses a bigger concern. She explain indirect effect as follows: “Oligarchs have impact on the primary legislation, institutions, and on the whole system and its functions, and this I see as a problem...because it will have impact on the decision making processes.” This section also relates to the next part where obstacle of judiciary will be demonstrated.

4.1.3.0 Obstacle number 2: Judiciary and legislation

Another significant obstacle is connected to the Slovak judiciary, court ruling, and the legislation. In recent years there has been several cases where freedom of expression has been noticeably limited by the court decisions. They negatively affected the media and their economic situation along. There was a strong concern of chilling effect which is one of the consequences of legislative constraints in terms of freedom of expression. 12 out of 13 interviewed journalists have been involved in litigation as a consequence of the articles they have written. In majority the cases were civil litigations according to Act No. 40/1964 Coll. Three of the respondents also experienced criminal prosecution according to the Criminal Code No. 224/2010 Coll. The reason of the prosecution was defamation. To understand defamation according to the Slovakian laws, one needs to know the types of laws the country has established. Therefore, the next few lines provide short summary of the legislation regarding free expression, right to privacy, and defamation.

4.1.3.1 Defamation in Slovak jurisprudence

Constitution of the Slovak Republic provides protection of free expression and impose limitation of the right in order to protect individuals. Third part, article 19, contains three sections defining the right to privacy as follows: (1) everyone has the right to preserve human dignity, honour, reputation and to protect the name; (2) everyone has the right to protection

against unauthorized interference in private and family life; (3) everyone has the right to be protected against unauthorized collection, disclosure or other misuse of his person.

The limitation of the article 26 – freedom of expression, relates to protection of the right to privacy and reputation. Free speech is thus not absolute. Violation of the private life might result in defamation. It is a negative social phenomenon, therefore, the citizens need to be protected by law. According to Slovak legislation the defamation could be treated as a civil wrong according to a Simple Offence Act No. 372/1990 Coll. where anyone who offends another person by insulting him or exposing him to ridicule may be punished by fine of 33 euro; or as an infringement of individual rights according to the Civil Code No. 40/1964 Coll.; or as a crime according to the Crime Code No. 372/1990 Coll.

4.1.3.2 Defamation as an infringement of individual rights

The Civil Code distinguishes between protection of personality and legal entity. Article 11 affords individuals a right to privacy; and pursuant to section 19b paragraph 2 and 3, to protect the name and reputation of the legal person. In social relationships with a lot of interference with these rights is therefore in everyone's interest to know what legal means. (“Ohováranie, ochrana dobrého mena,” n.d, para 2) With regards to defamation according to the Civil Code the financial compensation should be awarded only if the moral redress, as for instance, apology, is not sufficient in the particular case. (Wilfling & Kovačechová, 2011, p. 31)

4.1.3.3 Financial compensation and public officials

According to the European Court of Human Rights and similarly in Slovakia the ceiling for monetary punitive compensation does not exist. Each case is considered individually according to the degree of the damage. Throughout the last few years the controversial figures of civil litigation were awarded. An extremely high financial compensation was characteristic for the cases where the plaintiff was a politician or a judge.

Mr. Múdry (IPI Slovakia) states, “The main obstacle of freedom of expression is the Slovak judiciary. During the period of Štefan Harabin the number of lawsuits peaked. The trend of prosecutions was daily reality for many.” Štefan Harabin is the former chairman of the Supreme Court. He is known for controversial activities and compensations he requested in several cases. The highest amount reached almost 100 000 euros: Harabin vs. publisher Petit Press and Perex.

Mrs. Kovačechová from *VIA IURIS* evaluates the situation as follows: “It was hundreds of thousands of euros, and these amounts are absurd compared to compensations of victims of criminal offences, as the homicide. Such a victims are compensated according to the regulation which is determined by the ceiling for compensation. They cannot be awarded more than the upper financial limit. The amount for lasting health consequences or death is low compared to compensation awarded to public officials for defamation.

One respondents remembers Mr. Harabin saying, “Just ask, I always like to earn money.” One redaction had unwritten rule to avoid any investigation and articles about the chairman. Legislation with regards to defamation of public officials justify the amount of non-pecuniary damages as follows, “the persons are publicly known, of which they infer, that the mention of such a person must necessarily be more publicly interesting as the information about unknown persons.” (Wilfling & Kovačechová, 2011, p. 35) This means more people would read and know about the case, thus the damage is higher. This is contradictory to ECHR argument that officials “need to endure a higher threshold of criticism.” In case of judges, the argument was the encroachment against judge violates the judicial independence. Again, according to ECHR judges are considered as the public officials. (Wilfling & Kovačechová, 2011, p. 36)

The issue of litigations is the weak argumentation and justification of the amount of financial compensation. Wilfling and Kovačechová summarize, the court often award certain amount based on subjective testimony of plaintiff, his family, and friends. (2011, p.50) Awarded financial compensation is often too high, many feel the idea is not to redress damaged person, but to intimidate the media by devastating penalties. However, Ján Siman said in relation to the tabloid press that, they prefer to pay the amount awarded by the court because their sales exceed the penalties. Nevertheless, for other types of the print media the amount represent potential bankruptcy and negative financial situation.

“Bonnano case” is one of the most illustrational example of how judiciary operate in the country. Tabloid *Nový Čas* (transl. *New Time*) in 2011 published a photographs and an article about gathering of lawyers and judges in the *Bonnano* bar. One of the participants, a retired lawyer, imitated mass murderer who shot dead seven Roma in Bratislava two months before the event. He wore blue ear protectors and imitation of a rifle used during the shooting in *Devínska Nová Ves*, city district of Bratislava. The pictures of the lawyer and other participants from the party were publicized. As a result, several people who attended the party sued the newspaper. The eight lawyers and judges were demanding 940 000 euros in total. Initially during the first court ruling, the tabloid was ordered to publish an apology which was criticized

as restricting reporting on the matters of public interest. (OSCE, 2015) Furthermore, the case raised concern of international institutions and Dunja Mijatović, OSCE media freedom representative, condemned the suit and the extent of the damages sought. (In Freedom house, 2014) Finally, after four years the charges were dismissed. On the question whether it was appropriate to publish the article Mr. Múdry answered, “The media are here to control the public officials and the state power, media represent public and are responsible to the society. Politicians and judges should be the elite of the nation, but when the elite begin to behave unacceptably the ordinary citizen behave in the same manner. When judges behave like they did in the *Bonnano* bar, media are obliged to publish it and refer about their behaviour.” The tip was proceeded by Júlia Mikolášiková, she was often put in the pillory as the one responsible for the article sued according to the Criminal Code. She stated, she just did her job, if she was on holiday someone else would write the story. With regards to the article, subsequently there was a video made about her. Many understand this as the form of intimidation connected to her article about the *Bonnano* gathering. The anonymous author used a certain parts from the interview with her used in the documentary movie about tabloids. Sections from the documentary were taken out of the context and commented aiming to discredit the journalist. With regards to the “Bonnano case” many international institutions including OSCE insisted on moderating the charges, and the critics perceived the case as the violation of free speech.

4.1.3.4 Defamation as crime

Defamation could be considered as a crime according to the Criminal Code No. 224/2010 Coll. The defamation is conforming to the article defined as: (1) Any person who communicates a false information about another is likely to considerably damage the respect of fellow citizens for such a person, damage his career and business, disturb his family relations, or cause him other serious harm, shall be liable to a term of imprisonment of up to two years. Here the charges represent a real danger for journalists because of criminal prosecution of individuals – journalists, not the media employing them, according to the criminal liability of a man. The charges differ according to the extent of the damage. One to five years in section (2) according to article (1) when: a) causes substantial damage through its commission; b) by reason of specific motivation; c) in public; or d) in business acting in a more serious manner. The highest charges from three to eight years in section (3) according to article (1) are awarded when: a) causes large-scale damage through its commission; or b) causes another to lose his job, collapse his undertaking or divorce his marriage.

Several respondents perceive the law paragraph as gloomy remain of communistic regime which aims to chill the media and insist on removal. In reality none of the journalists have been found guilty. Therefore, it could be claimed the function of the paragraph is to intimidate the individuals and the media. Mrs. Petková now working as a deputy editor for economic weekly *Trend* describes her feelings while she was accused of defamation according to the Criminal Code, “I was prosecuted for one and a half year when I wrote about Harabin’s wife and I publicized her income and other benefits she had, during the legal proceeding I felt uncomfortable and did not write about him.” She expressed how difficult was the period for her family also. Simultaneously, documentarist Zuzana Piusi was also prosecuted for the documentary movie about the judiciary. In these two cases the help and the assistance was realized through the pressure of civic activist and organisations, as for instance, *VIA IURIS*. The street demonstrations and the petition for both positively influenced the prosecution office and led to cancelling the charges. Mr. Múdry said, “These articles and codes are used for intimidation. We are not specific country, anywhere in the world politicians want to influence the media, it is their job, but the media should not allow to be influenced.” Individuals are exercising their job without constraints, although, the danger of Criminal and Civil Code paragraphs continues.

4.1.3.5 Court as a part of the job duty

Mrs. Lacková said, “The litigation is the Slovak fashion for everyone,” not just in relation to the public officials but to regular citizen accordingly. The modern tendency is that certain people try their luck if there will be the judges “on their side.” She is testifying at the court every week in different cities as a result of the articles she has written. In civil litigations the publisher is responsible for the article and the financial compensation. The lawyer is representing the publishing house during the court ruling. Journalists who write the articles and whose names are signed below the text must testify at the court. All investigative journalists testify often, it is a part of their job duty. Marek Vagovič from *tyždeň* said, “Threats of lawsuit cases are permanent.” Each bigger case they have investigated could lead to litigation. It is practically impossible to avoid it. The key, as Mikolášiková former tabloid employee said is, “you just have to learn to write the story in such a way to avoid the prosecution.” She means to be careful about every single word. Correctness of details in the wording of sentences is useful tool to avoid long explanation of the misleading meaning during the court proceeding and can prevent the litigation as such. Mrs. Kovačechová evaluates the situation, “Just the title of the

article was controversial and it was the reason for the lawsuit, in the article the headline was explained and the hyperbola between title and article was obvious, nevertheless, they awarded a big amount for punitive monetary compensation.” Mr. Vražda from *SME*, one of the most influential mainstream daily, with regards to one of the controversial articles with title “*The head of the cancelled Special Court hunted for free*” said, “the problem was with the word free because it was demonstrated at the court it was not for free but it was a barter.” This means they exchanged the hunt, he was hunting at his ground, while the politician could hunt on the ground of the judge. The title might have been incorrect but the article properly explained the situation about the hunt. In this case the daily had to apologize to the judge on the front page, three days in a row.

Each redaction has a lawyer with whom journalist can discuss the articles to lower probability of the prosecutions. Journalists from tabloids receive special manual after signing the working contract. The manual contains all practical information to avoid not just unethical but unlawful actions while conducting the interviews and presenting the data in the final article. Their employers put an effort in training system. Regular training sessions with lawyer are organized to discuss the matter of unlawful action.

4.1.3.6 Value of truth and litigation

The quality of journalism rely on truthfulness of the information which has significant impact on credibility of the media. Truth is requirement and responsibility of journalists to the society. If the false information are published the ethical but also the legal norms are violated. On the other hand, if the truth is published and the information is correct no rights should be breached. The issue is that even the truth can damage someone’s reputation and can infringe the right to privacy. The important factor is whether the information is the matter of public interest. Legislation varies among the countries. For instance, in the United States the court is deciding upon violation of the right to privacy and the truthfulness of the information plays an important role. The plaintiff must prove the falsity or malice. Lawsuit with regards to public officials and public figures against the media are considered as threats for free expression. Media has constitutional privilege. (Wilfling & Kovačechová, 2011, p.49) European Court of Human Rights appreciate the two mutually competing basic rights – freedom of expression and the right to protection of reputation. They consider cases of public officials against the media strictly but truthfulness of the information is not considered as in the United States. In Slovakia similarly, the truth is not crucial while deciding upon defamation related to cases of public

interest. Court is considering how big the damage was and the extent of negative impact on the person's life. Mrs. Lacková said, "If the information is truth and you can prove the information is truth, there shouldn't be a problem...but here, it does not work like that." Ingrid Drozdíková, deputy chief editor of daily *Pravda* (transl. *Truth*), similarly refers to lawsuits for truth statements, "We have to work with the phenomenon, because the courts are ruling rather against the media than in their favour." Journalists often refer negatively to the fact they write the truth, but it does not have any particular value during the litigation. The court are not deciding according to the truthfulness of the facts but over the impact the message had on someone's reputation. If the court discovers the article has negative impact on the reputation of the person, they award the punitive monetary compensation.

4.1.3 Obstacle number three economics and finance

Respondents see economic situation of the media as a further obstacle. Some refer to the crisis in 2008 which had impact on the media likewise. The advertising income during the crisis declined significantly. Václav Štetka in his report argues, "The crisis was one of the most significant factors developing the media market in CEE countries also factor influencing relationship between media and democracy." (2013, p.4) There was a reduction of journalists so the media could survive the crisis. The economic reason has two lines. The first is connected to the quality and quantity; the second to the income of the media.

To begin with, the media are generally small businesses, therefore, their existence rely on few individuals. Numbers of journalists are small and they are usually responsible for several articles per day. Fast-pace working environment together with deficiency in terms of working power might cause negative effects in terms of quality. Júlia Mikolášiková refers to material and technical obstacles where time and technical support for one article is very limited. Ján Petrovič (actuality.sk, before SITA press agency) summarizes, "Media did not have resources to pay for people, because of the income, who would provide quality writings. If they could pay for one political commentator instead of three, only one article was published." With regards to employees shortage Mr. Múdry states, "The economic issue cause that media do not have enough of good editors who could control the content and whether the journalists have well-grounded sources." Correspondingly, the chairman of the Press Council Július Lőrinc argues, "Journalism is low-skilled, economic reasons causing reduction of employees, therefore, one person has responsibility for numerous tasks and cannot concentrate on everything."

Another constraints is related to the media income. As anywhere in the world print media in the recent years coped with reducing sales of printed newspapers. Therefore, they were forced to find new alternatives. Currently, a huge part of the income comes from advertisement. The content is often adjusted to more convenient version. One of the journalists who wish to stay anonymous summarizes the financial obstacle as follows; “Certain topics being cancelled because they deal with sponsors or advertisers. Oftentimes, it is enough when someone just pays for advertisement and he is automatically safeguarded from criticism of certain media.” This might change because small pure media enterprises continuously vanishing. It is related to the current ownership concentration. Majority of the press media belong to the financially stable investment groups which leads to the better financial situation, however, this can result in obstacle number one – oligarchisation and self-censorship of the individuals.

4.2.1 Results of second research question: How do journalists cope with conflicts between rights to privacy and the public’s right to know?

The role of journalists in the society is very important. They serve as the watch dog of the democracy bringing critical and objective information that forms our perception of reality. McNair defines watch dog as, “critical scrutiny over powerful, be they in government, business or other influential spheres of society.” (2009, p.239) In order to do so they might hurt someone’s reputation and reveal information intended to stay private. Zeno-Zencovich argues that, the conflicting line between freedom of expression and professional approach of journalists might be clashing in terms of right to privacy. “If one accept the thesis that freedom of expression is irrelevant to most informational activity we must then alight on the more appropriate terrain of professional diligence.” (2008, p.12) The journalism is often criticized for invading the privacy in inappropriate manner. Therefore, one should distinguish between appropriate scrutiny and unreasonable invading of someone’s privacy. The law jurisdiction aims to protect individuals but might provide protection also for those who have the publicly significant profession. What privacy means according to country law system was in detail explained in previous part, in this section the aim is to focus on how journalists themselves cope with the obstacle and how it affects the work duty. With regards to the danger of constant prosecutions the research aims to reveal how journalists cope with freedom of expression on one hand, and public interest on the other. The conflict between the two entities being everyday reality for many practising journalists, therefore, it requires particular attention in this research.

Mrs. Láslopová, tabloid journalists, noted during the interview, “We are still not that critical on our politicians.” She gives example from Czech Republic where it is possible to reveal health card of president candidates. According to her, the health condition is an important data affecting the work performance, therefore, the citizens should be informed about the candidates’ health. Opposing view was expressed by Pavol Múdry from IPI Slovakia, “I will never agree on tabloid writing about the health conditions of officials because health is a private matter.” It can be claimed Slovak privacy is more conservative and distinguishing strictly between private and public life of officials. Society is stricter while providing any additional information to the media. Public officials, politicians, and judges are more sensitive about the information that might be normally released in other countries. For instance, in Czech Republic, it is usual the judges provide statements for the media after the court ruling with their faces filmed, while in Slovakia they almost never choose to be recorded or photographed, as was stressed by Mrs. Kovačechová.

Majority of the respondents respect the right to privacy and recognize the importance of the protection, especially for the vulnerable groups and ordinary citizens. The journalists differentiate between these groups and the groups of public interest. However, there are continuous issues within the area of public matters. Ján Petrovič evaluates, “the society does not have exact rules, how we should categorize the private person and the public official, and how to distinguish between the categories, whether we should discuss the questions just about those who are appointed to public functions, or also with those who operate in major private companies which has strategic importance for the state.” There is a significant predicament of how to approach the correctness and minimize the harm and simultaneously the negative consequences. Deputy Editor of daily Pravda said, “This is the biggest challenge and the dilemma. It needs to be considered in each case individually. We cannot generalize whether the right to be informed has the priority. One of the main keys should be – in case of wrong application of public money, corruption, conspiracy in public institutions, violation of human rights –we should always inform.”

4.2.2 Limitations for journalists

While examining the main obstacles of Slovak journalism, the aim was to examine potential self-censorship posed by high penalties in litigation cases, and further limits related to right to the privacy clashing with freedom of expression.

The questions I posed were:

- How do you see the right to the protection of reputation?
- Have you ever decided not to process the topic or tip precisely because of this right?
- Do you write or prefer to avoid the topics which may cause inconvenience for you and your employer?

Some of the journalists states that their job is to reveal matters connected to the public interest. Therefore, the only reason which can limit their investigation is the lack of evidence in the individual cases and deficiency in terms of public interest relevancy. They are aware, but not limited by any negative consequences. Mr. Siman states, “The correct way is to find a method how to write the article, each case has two sides, the one who find the weapon will win.” He means to be able to collect relevant and reliable data which are crucial for accusing the wrongdoers. In case of false or unreliable evidence the criticized person might be successful at the court. Many perceive their job responsibly and do not let anyone to chill the truth. The watch dog function is understood as a priority. The importance is placed on preciseness of their articles. Respondents never consider about who the article will be but how interesting is the topic for public interest. Mr. Vražda said, “There is either a truthful story or your mistakes.” He makes point that the stage of considering whether there will be a prosecution or not does not exist. The decision making process is explicitly based on the evidence and the pertinence. The only criterion is whether the journalists are able to prove what they write is truth, and as Mr. Vagovič expressed, “Any potential threat does not play a role, just the facts whether the topic is interested enough to be publicized.” The articles are published under constant threat of devastating penalties which would economically destroy the smaller publishing houses.

4.3.1 Results of the third research question: To what extent are journalists aware of ethical guidelines and principles while reporting?

In the world of free media and freedom of speech the moral circumstances depend on self-responsibility of the media and individuals working in the communication sources. Humanity, morality, and ethical principles are important in the contemporary society. If the media gain certain degree of freedom from the state, there is expected the ethical standards will be followed. The media should adhere to accountability and thus provide relevant function for the society. The principle as argued by Ward is:

Journalists as a members of news organizations have rights, duties and norms because as human beings, they fall under general ethical principles such as to tell the truth and minimize harm and

because as professionals they have social power to frame political agenda and to influence public opinion. (2009, p.296)

The desirable media role could be comprehended through the ethical codes. These are articulated as a written norms which could be interpreted, followed, and which should not be violated. However, in the modern world of information, the media are often criticized for their unethical behaviour. How are the ethics perceived by journalists in Slovakia is the important part of the research. The premise of this section is based on the argument that freedom of expression and ethics are linked to each other. If freedom of expression is to be used responsibly and if the responsibility is anchored in morality, then the ethics of journalism should be discussed and connected to the study. Ethical norms as a set of written codes has been initially adopted by the Syndicate of Slovak Journalists, which is the organization associating journalists in the country. Ethical code has been signed by the country's publishers which represent certain requirement to accept and follow the norms. To control ethical behaviour the Press Council has been established. The organization is responsible for protecting the ethics according to the Ethical Code of Slovak Journalists.

While asking about ethics many respondents immediately refer to the codes of their editorships. Interviewees perceive ethics as a meaningful duty and often connect following ethical standards to the reputation of the media. Reputation means credibility which is connected to truthfulness and correctness. Majority of the respondents perceive the most significantly ethical norms related to truth, objectivity, impartiality, and professionalism. They focus on correctness of the facts because misleading information and mistakes in the articles cause negative consequences. In the previous paragraphs the focus has been placed on lawsuit cases. Journalists are generally aware of potential difficulties connected to violation of ethics. They cannot afford to go behind the line because it leads to potential lawsuits. Legal rights are parallel with breaching and disrespect of the moral norms. Violation of ethical norms might involve in civil litigation or criminal prosecution. Mr. Múdry expressed, "Violation of ethical codes gives the weapon to critics of the newspapers and to those who would like to sue them." The more verified are the facts, the smaller is the danger of lawsuits. By increasing ethical standards the harm is minimized for those mentioned in the articles, also for those who publish and write the stories and face consequences of their actions. The journalists are generally aware of harm and express personal responsibility. When asking Mr. Vražda about violation of ethics he answered, "Yes, I did and I am sorry, but each of us has to experience it in order to learn." He additionally said, "For these mistakes the apology is barely enough to relief one's

conscience.” Not all respondent would openly talk about violation of ethical code, it is rather a sensitive area. Beside it depends on the type of the medium, different reactions were conducted from tabloid and from mainstream journalists. Mainstream interviewees consider ethics more seriously than those working for tabloids. Common feature of all respondents is correctness of their work which is the priority. Mrs. Lacková said, “Each word matters. Sometimes I write a sentence the whole day.” The focus is on details, words, not just on the whole context. Tabloid journalists mostly refer to addressing all persons. Everyone who is mentioned in the article has to be given a chance to comment and argument. Mainstream investigative journalists focus on truth, objectivity, and correctness to avoid harm of the person. Five of the respondents refer to the truth, while other three talked about objectivity. However, Mr. Vražda said the truth is never 100% therefore, he adds the professionalism, which as he states, “helps to consider the relevancy of the truth.” Three respondents used the phrase “unconsciously hurt,” which means to work professionally and remove any potential harm. In many cases they admit using off record information, secret recordings, or they pretend to be someone else during the phone call in order to get more information. They argue that in order to reveal the truth there is a need to work at the edge of acceptable norms, but the risk is only related to the public interest matters. They are performing unethical behaviour in only necessary situations, as the last option to reach important information. Mr. Šiman argues, “Each norm or code is here to be violated, but it is important to have a limit.” Generally, it could be claimed journalists are aware of their own mistake and violation of the code of ethics, but they might agree on violation when the case is the matter of public interest. Many said the intention is not just to inform but also to attract the attention, however, they refuse to admit any financial pressure which would intentionally affect the ethics and breach the ethical norms. On question whether the financial revenues are more important than ethics, Mr. Tkačenko admits, “It should not be, but often it is. We need to have articles, readership...oftentimes, we do come up with critique to make something wrong to those we disagree with. It is happening everywhere and it will happen.”

4.3.2 Violation of the ethics according to the Press Council

Journalists has valuable ethical code but individual norms being continuously violated. To increase better standards in terms of ethics, Slovak association of publishers and Slovak Syndicate of journalists established the Press Council. The task of the Council is to decide upon complaints about violation of the Ethical Code. They do not award financial penalty but their task is to identify whether and which ethical norm was violated. In case of infringing particular

ethical norm they decide on how serious was the damage and opponent can be addressed in three levels of: warning, concern, or rebuke. Their annual reports being published on the website and served as useful source of information for the research. By elaborating and summarizing former complaints one can understand the extent to which the ethics is respected. In 2012 there was 21 complaints but only in 11 were considered as the violation of the Code of Ethics: 7 warning, 3 concerns, and 1 rebuke. This declined to 13 complaints in 2013, where only in four cases council decided as follows: 2 warnings, 1 concern, and 1 rebuke. Annual report for 2014 has not been yet published but until now they published decisions of: 1 warning, 4 concerns, and 2 rebukes. According to the numbers of the complaints the most problematic are tabloids and regional newspapers. In majority the opponents received warnings which is the lowest level of breaching. The most problematic areas were plagiarism, misleading headlines, verification of the facts, impartiality. Chairman of the Press Council Július Lőrinc evaluates situation positively saying, “The ethical situation improves, journalists behave responsibly, they pay attention to correct argumentation, and to verification of facts.” What he sees as the most problematic are headlines of the articles, “Tabloidization manifests – attract the attention at any price.” Headlines often contain distorted information aiming to attract attention of the readers. In the article there might be proper explanation but the headline itself is misleading which is often perceived negatively. Another issue concerning the ethics and ethical code is that redaction rarely publish the verdict of complaint. According to the Press Council newspapers should publish the report on verdict especially in case the ethics was violated. Mr. Lőrinc sees the problem in the big editorial offices ignoring their correspondence and not publishing anything regarding the Press Council and violation of the ethics.

4.3.3 Current situation of journalistic association

To keep certain standards of journalism, to provide support, address, and discuss issues there are numbers of journalistic associations and professional organisations. Their aim is to associate journalists and provide basis for exchanging ideas and ideals. Accordingly, they have positive impact on education and professionalization. Uniting the journalists is exercised on national, also on international level. In Slovakia the Slovak Syndicate of Journalists has been established. It is a nationally recognized organisation. Assuming the importance of such an organization for Slovak professional journalists the matter was discussed with respondents and media specialists. Surprisingly, they all refer to the Syndicate as non-functioning. Almost none of the respondents is a member anymore, many used to be, but terminated the membership after

bad experiences. Mr. Lőrinc evaluates condition of the Syndicate as very bad and cooperation between Syndicate and the Press Council as non-existent. The Council has problems with propagation and he would seek help from Syndicate with promotion of the Council, but currently any help from Syndicate is unrealistic. The association is in devastating condition. Mr. Múdry expresses significance of journalistic association. He perceives existence of association as a solution for journalists' situation. Establishment of new organisation that can protect their own members is according to him very important, but there is a major problem of current journalism, "competition is more than estates cohesion." Individual editorial offices do not communicate with each other and do not discuss the problems arising from criticism, lawsuits or other issues related to journalists' everyday duties. When lawsuit for Bonnano article occurred, the publishers had to meet to discuss the issue, so the individual editorial offices could start publishing stories about the case and the lawsuit.

4.3.4 Ethics and economics

The quality of journalism depends to the big extent on the economic situation of the particular media. Financially unstable media cannot afford many professional journalists and editors which has impact on the quality of the newspapers outcome. Mr. Lőrinc sees the reason for breaching the ethics in excessing workload where individuals are given too many responsibilities and it cause distractibility and mistakes. As he argues, "journalist should know about everything what is happening in the world but about something he or she needs to know more." This means one journalist should be concentrated in one section where referring to one or two particular fields. This leads to accuracy of decision making processes where individuals focus more on following of the ethical standards. Shortage of professionals is thus parallel with quality of the articles and violation of the ethics.

Another line of ethics and economic is often related to the tabloid press and their interest in sensitive topic to attract the readers. It is argued, human dignity does not have a value anymore. Saleability of the press is more important than respecting humanity and morals. Ján Siman with past experiences in tabloid, currently working for TASR (public press agency) names the problem as "buckets full of blood," he provide an example of car accidents. "Before, the information about car accident served as warning for people pointing to problem of irresponsible driving or to critical condition of the roads. Currently, the information provides too much disgusting and unnecessary detail." Mainstream journalists on the other hand argue, the financial pressure does not affect their job. Pravda – mainstream daily, deputy editor said,

“Ethics has the priority and well-established owner should know. Reader would always discover manipulating of information or avoiding the certain topics, so he would stop reading particular newspapers.” For journalists from serious press is the financial pressure something which should never affect the ethics. Generally, they do not accept any noticeable financial pressure on their profession.

4.4. Chapter summary

This chapter provided the main information about the current state of freedom of expression from the journalistic perspective. The first section identified the main obstacles perceived by contemporary journalists as oligarchisation, judiciary/legislation, and economy. Each obstacle was identified according to the knowledge gained from the respondents and other specialists from three fields of ethics, legislation, and free speech. The second part examined how journalists cope with conflict between free expression and right to privacy. The aim was to find out to what extent Slovak legislation represents an obstacle for free production of journalistic outcome and what is given the bigger priority. Whether it is the right to privacy or public interest and what consider journalists as the more valuable while reporting on particular issues. The last part discussed the ethical consideration, importance of the ethics, and violation of ethical code. This part had significant value for understanding how journalists appreciate the ethical codes in the state of established free expression and how they refer to moral norms. The purpose was to reveal most important statements of participants in the research to identify, describe and define the degree of freedom of expression with possible strength and weaknesses which will be furthermore discussed and evaluated in the next chapter.

CHAPTER FIVE

DISCUSSION OF THE RESULTS AND FINDINGS

5.0 Introduction

The chapter is a discussion of results and findings of the three research questions. The areas to be reviewed are related to the main obstacles of current journalism, right to privacy, and ethical norms. The knowledge gained from interviewees, relevant literature, and analysis of current situation of free expression in the country serves as the background. The chapter is organized as follows: 5.1 talks about obstacles of contemporary journalism; section 5.2 discuss the privacy and public interest; section 5.3 reveals ethics; the chapter is completed by the summary 5.4.

5.1 Obstacles of journalism

There are numerous functions the communicational sources provide for the society. McQuail defines the ways in which media support the public sphere as:

Enlarging the space for debate, circulating information and ideas, interconnecting citizens and governments, providing mobilizing information, challenging the monopoly of government over politics, and extending freedoms and the diversity of publication. (2010, p.181)

To guarantee the media fulfil their primary role within the public sphere, they must be free from constraints. Currently, the obstacles and limitations do not relate to prior censorship but to sophisticated forms of legislative, political, and market aspects. Journalists are challenged from several areas. They are expected to provide impartial and good stories covering the most significant matters of public interest. Good journalism relates to truth seeking, objectivity, professionalization, and ethical approach of the newscast. All those are principles of correctness and reliability which lead to public discussion appropriate for democracy. Problematic and often overlooked is the current situation within the journalists and media operate. They work under pressure which appear as a changing mode of public sphere related to commercialization and elite communication.

Contemporary journalism and media enjoy freedom of expression as declared by the Constitution of the Slovak Republic No. 460/1992 Coll. article 26. Declared freedoms are not unconditional. There are certain limitation posed by morals, legislation, and ownership. In order to ensure desirable outcome of the media the government might interfere into the media

freedoms. However, the act of control is perceived as a limit because it might prevent revealing the truth. The first research question was posed to examine the situation of current journalists. The three main obstacles have been identified as: oligarchisation, legislation/judiciary and economics. The second research question studied obstacle of right to privacy aiming to reveal the limits of legislation with regards to right of individuals, and the last question was related to ethics.

5.1.1 Oligarchisation

The history of media since 1989 was characterized by privatisation and entry of foreign investors into the Slovak enterprises. They financially rescued the print media after the economic crisis. In recent years the changes in print media ownership occurred after some of the foreign investors sold their shares to the Slovak oligarchs. Entry of *Penta Group* into the most respectable publishing houses raised the wave of criticism. Majority of journalists and editor-in-chief of the mainstream daily *SME* left, after 50 % of shares were sold to the group. They created a new platform called *DenníkN*. The financial group is notorious for their previous attachment to the politics and corruption. The main concern of oligarchisation relates to financial activities of the politicians and oligarchs which might use certain media to promote their interests. Uncertainty is connected to constraints of the media while revealing the matters of public affairs, to objectivity, and truth seeking of journalists. The creation of new daily *DenníkN* was perceived positively by journalists arguing, there is still enough space for exercising independent journalism. However, Mr. Múdry criticized their act as irresponsible because they damaged their former employer and the reputation of the daily.

Slovakia do not have the press media legislation which would define scope of ownership concentration. The Press Law determines rights and obligations of publishers but not the owners. According to the press evidence, the publishers must be registered in a list of periodicals. They provide information about structure of the ownership. Except the public radio, television, and the public press agency, the state does not subsidize newspapers to ensure plurality. They are purely private businesses and their position is determined by the revenues of business strategy.

Presence of Slovak oligarchs in the media is perceived more negatively than of foreign investors. It is because they operate in various areas, which might be connected to politics and decision making processes. The example expressed by Mr. Tkačenko, relates to the owner of *Hospodárske noviny*. The oligarch who owns Mafra publishing house in Czech Republic do not

engage in politics in Slovakia, which does not represent conflict of interests in the Slovak media scene. However, since he owns private business in the country except the daily, it might involve issues for economic section of the newspaper.

Characteristic feature persisting in the democratic society with communist legacy is clientelism. It is based on principle, “the politicians supply benefits only to individuals or groups that supports the politicians. Likewise, the client supports only that politician who delivers, or promises to deliver, a value benefit in return for the client’s electoral support.” (Allen, 2011, p.291) The term oligarchisation is commonly associated with both corruption and clientelism. The exchange of services between financial groups and politicians is noticeable during the election campaigns. Political parties use generous sponsors to achieve their goals; and as an exchange, they return the finance support in the form of other services. Contingent upon the relationships of these groups, the ownership of information services might pose limitation on ability of individuals to exercise freedom of expression. The role of media and professional journalism is significant, while providing the newscast coverage on these events. Without independent media, the investigation and discovery of corruption, or mismanagement of public finances cannot be fully exercised. Journalists perceive entrance of oligarch with fear and worry about the future impact on the freedom of the media. They do not agree with concentration of the media ownership. In reality, almost all big media houses in the country belong to investment groups or oligarchs. Therefore, many argue the objective and free communication services are vanishing. Credibility and reliability of the media being judged according to the proprietor.

None of the interviewees have experienced any direct pressure, censoring the messages, content of articles, or choice of topics. They mostly refer to indirect influence which might have impact on their news sources and on lack of journalist objectivity. Difficulties with the former contacts might be explained through the clash of interests with regards to the new owner. Moreover, journalists might be too critical in order to prove their independence which leads to presenting unbalanced facts to the reader. As the respondents revealed, the hysteria paradoxically caused more criticism of oligarchs. Some interviewees declare the investigation can be more difficult because sources will avoid cooperating; and journalists would release distorted news lacking the objectivity. Intention of journalists is to write independently but their independence can be under constraints from their owners. Therefore, many rely on their own extent of freedom within the commercialized media and the influential owners.

Opinions about oligarchisation differ between tabloid and mainstream media. Tabloid journalists are more comfortable with the oligarch-employer. They understand media as a

regular business which is traded for revenues. On the other hand, mainstream serious newspapers consider oligarchisation as negative element, which affects the media independence. It is difficult to accept the owner previously attached to corruption, because their job is to fight against this phenomenon.

Existence of financially strong groups and individuals who engage in various businesses within the country raises questions about their interests. They regularly operate in several sectors which are interconnected. Therefore, their activity might be perceived as shadowed and uncertain. It might be argued the engagement in the media is deliberate. Media has been always a tool used by politicians and influential people within the community. They owned the communication sources in order to have a voice, so they could speak to people, spread opinions, and interests. Benson argues that, political communication has transformed and is not anymore organized via small scale media, but rather using commercialized media system. (2009, p.176) If the media owner has particular relationship with the politicians, then one can argue, the political communication through the media will persist and they cannot be perceived as reliable. Habermas and Outhwaite argue that, the public sphere in order to provide variety of sources and opinions should be free from political and other elites. (1996, p. 217) If influential people owns the media, the original role of media within the public sphere does not provide open arena for public debate, but it is rather a space for communication between powerful groups or elites of the nation. Media has adapted and changed along these interests. Ownership concentration of the media by powerful might lower the plurality of opinions; and can be replaced by constant fight among groups, fulfilling their own interests through the informational sources. According to Jakubowicz, there are three levels of media independence: external, internal, and personal/professional. (2007, p.33) Oligarchisation might inhibit internal media independence, which is freedom of editors and journalists from owners, publishers, and managers. It might have negative impact on journalists' autonomy because public sphere transforms to elite-to-elite communication. (Štetka, 2013, p.25)

Oligarchisation also affects the objectivity of journalists. The role of the media is to provide impartial and objective information to the reader. One of the findings of the study was related to hysteria of journalists after shares of their publishers were sold to oligarchs. To prove their independence, they often released more critical and biased stories. The criticism of oligarchisation was thus increased and there were more stories published. The impartiality of the informational sources was affected by the ownership.

On the other hand, oligarchisation might be seen positively because of the impact on economic situation of the media. Communication sources depended to the big extent on the

income from advertising. One of the perceived limit is related to advertisers and their indirect protection after promoting their services or products. Those who pay are automatically excluded from further criticism so the media will not lose their income. Many see engagement of oligarchs positively because of the financial stability ensured by the owner. The owners can invest in alternative ways of financing to increase media stability.

5.1.2 Legislation and judiciary

Over the last few years the trend of criminal prosecutions and civil litigations was frequent against the media. All legal disputes were related to defamatory statements for published articles, which informed about mismanagement of public financial resources, corruptions, and clientelism. Some disputed raised international debate, attention of OSCE media representative, and other institutions handling issues of free expression and journalistic freedoms. Legislation and implementation of laws raise concern of chilling effects. It might inhibit external independence of media according to Jakubowicz, which is related to freedom of media to operate without outside pressure posed by legal and political interference. (2007, p.33)

Defamation is communication of false statements that might harm someone's reputation. Slovak and European laws provide broad framework for individuals' rights aiming to protect the reputation and honour. In Slovakia the protection by laws being misused by public officials, which is contradictory to ECHR statements, that these groups should endure higher threshold of criticism. Negatively recognized legacy of communistic regime is the criminal prosecution against the journalists according to the Criminal Code No. 372/1990 Coll. section 373. It is a significant part of modern intimidation, since the sanctions for the defamation can reach imprisonment of 8 years. Another law which is generally perceived positively is the Civil Code – Act No. 40/1964 Coll. The articles 11 and 19 protect honour and reputation. Journalists generally appreciate protection of right to privacy, especially with regards to vulnerable groups and regular citizens. However, they perceive protection of public officials as irrelevant by reason of their mandate and responsibilities in the democratic society. Officials and politicians have initiated numerous lawsuits against media, demanding thousands of euros.

All citizens have the same rights to protect themselves if an untruthful statements were made about them. Nevertheless, the prosecution for truthful and unverifiable proclamations of opinions persists. Truth is not considered as defamation, therefore, should not be legally actionable. Investigation as stated by respondents, was rarely based on false information, but

truthful facts did not increase the chance of winning the case. The problem also occurs while court deciding upon the amount for punitive monetary compensation in civil disputes. The amount is often not equivalent to the salaries of journalists, and the court do not provide justification for the scope of compensation. Slovak jurisprudence and similarly ECHR do not have ceiling for the amount, but considering the size and impact of the damage. Mrs. Kovačechová perceives the court verdicts as an issue, and expresses the need to set ceiling for compensation. Mr. Múdry also refers to implementation of the laws as to a current issue of free speech. In his opinions, the laws meet international standards, but are often misused by powerful people in the country. Many have noticed the civil disputes do not aim to compensate the damaged person, but rather to intimidate creators of the media content. There is a demand for effective reform in the area of judiciary. Another issue contributing to chilling effects is dysfunctional judiciary. Kovačechová argues that, the length of the court ruling differs according to connections. Regular citizens are waiting for years for the final court verdict and their justice. On the other hand, public officials can “earn” thousands of euros in few months for defamatory statements.

In still developing democratic society with high corruption rates and tax evasions, the critical scrutiny by journalists and their watch dog function is very important. Respondents perceive the intimidation negatively but are not afraid of negative consequences. Majority of them state, there would be no investigation if they would fear from lawsuits. The frequency of litigations decreased in recent years. The situation improved after several verdicts of ECHR, which ruled in favour for the rights of journalists and free speech. One of the successful examples is the case of Árpád Soltész. He was sued for defamation and had to pay 100 thousand Slovak crowns, plus court costs of 500 thousands after publishing an article and connecting businessman with vanishing of the person in 1997. Eventually, the ECHR in 2013 ordered Slovak Republic to compensate him. Ruling of ECHR and also several decisions of Constitutional court set the precedence for the cases. One of the important milestones was also court ruling - Prime Minister Róbert Fico versus Slovak caricaturist Shooty. The caricaturist was not found guilty at the distinct court and it led to withdrawal of the lawsuit by the minister. Furthermore, the prime minister was not successful against tabloid *Plus 7 dní*, and the claim was dismissed. Positively could be seen the latest decision regarding to the “Bonanno case,” the high financial charges for judges and lawyers were also rejected. Current situation might be stable, but until the criminal prosecution for defamation will not be removed from Criminal Code; and without establishment of the ceiling of financial compensation in the Civil Code, the risk of devastating consequences will continue.

Some respondents refer positively to Mr. Fico stating, he is not as aggressive as during the first government. Róbert Fico is well known enemy of journalistic critique, the latest threat appeared in April this year, when he announced another possible lawsuits during the press conference. According to *DenníkN* from February 2007 to 2013, he avenged non-pecuniary damage of 235 294 euros. (“Fico ide znovu žalovať” [Fico is going to sue again], 2015) Ján Petrovič argues, the situation has improved along with the invention of the Internet, which provides space for various viewpoints. Many understood the sources of information as unlimited and if the newspapers critique would be hindered, there is online space for further judgments from bloggers or anonymous debates.

In order to secure future stability and avoid unfounded civil and criminal litigations, there has to be certain decision taken. The issue of media is not discussed enough and there have been no laws amendments approved recently to change the situation. There are difficulties within the country and high unemployment rate, which has priority over the media laws, Civil and Criminal Codes related to defamation. Latest version of the Press Law seems to satisfy politicians; and their desire for solving further media issues seems to be very low. Since the country is missing functioning media and journalistic organisation, it is troublesome to push the politicians to discuss issues, improve legislation, and court decisions.

The expected boundaries to be discussed with the respondents were legislation and law implementation. The aim was to examine whether high penalties of defamation cases leads to chilling effects and self-censorship. The respondents feel uncomfortable, but are not limited by potential litigations. Majority of respondents investigate cases that resonate in the society and their importance have often impact on the political arena. The role of watch dog has the priority over safety from critique. In the past cases, there were some unwritten rules with regards to devastating penalties requested by the former chairman of constitutional court Mr. Harabin. But currently the individuals strive to prove truthful facts without any limitations. Potential prosecutions have positive effect on the quality of the articles. Respondents emphasize on details and overall correctness of the statements within the content of the stories. The only reason that could inhibit investigation is the lack of probative evidence and relevancy of the matters for public interest. Journalists cannot afford to publish false statements without proper verification of the facts. Some describe the successful court process as based on evidence and ability to prove the truth. However, the truth do not have any particular value when the plaintiff is a well-known person with connections.

The results of defamation has positive impact on ethics; however, many argue ethics do not play any role during the court ruling. Many see positively protection of the news sources,

articulated by the Press Act. It often provides great advantage for journalists, because they are required to protect anonymity of those who help them to highlight facts and bring the evidence. Limitation of free speech is not direct, the issue do not relate to self-censorship but to steadiness of the court processes. Journalists are sued for almost every single bigger case they have published. Therefore, the frequencies of a court ruling represent a vast majority of their job. Instead of concentrating on the regular duties they spend time at the court ruling, testifying, and discussing the cases with lawyers. It is very time consuming fact which inhibits further investigation and limits the proper job fulfilment. In fact, the majority of plaintiffs were officials who are more familiar with the law than regular citizens.

Another form of current intimidation is more sophisticated and also indirect. It is related to insulting individuals using internet or phone. One of the examples was examined with regards to “Bonnano case.” Journalist J. Mikolášiková experienced bullying via video and false blog. There has been also others whose names have been misused in revenge of their work. Anonymous bullying of individuals is unpleasant reality and leads to self-censorship. The cases are not frequent but their existence has negative impact on further investigation.

5.1.3 Economic obstacle

Nowadays constraints of the print media are related to their position among political and economic activities. Press is thus forum for advertising not rational conversation. (Benson, 2009, p.177) The public sphere has changed and the primary role free from market and economic imperatives is actually invaded by commercialisation and business aspects. Current economic obstacle relates to revenues of individual media. In order to survive as private businesses they depend on advertising income. Decline of sales of paper versions of the newspapers after invention of internet, forced media to find alternative ways of financing. According to Office for verification of printing costs ABC SR established in 1999 in Slovakia, sales of printing media decline by 7% each year. (In “25 rokov slobody médií” [25 years of media freedom], 2014) Additional income is secured by advertising and online activities. Newspapers has their internet paid versions. Readers are usually charged for full version of the articles. Some newspapers use Piano, which is system allowing website publishers to charge for online content. Currently, the economic might be perceived as stable, but it is not the rule.

During the economic crisis the income from advertisement decreased which was parallel with numbers of the professionals in the particular media. Struggle of skilful and experienced working power was common feature of two decades of journalism. Firstly, the replacement of

journalistic elite by new inexperienced staff occurred after the revolution in 1989. They had to be removed because of the adherence to the previous regime. Secondly, the shortage of professionals was experienced during the economic crisis in 2008 which led to issues concerning quality and credibility of the news production. In both cases the newspapers lost professionals and had to cope with low quality of the content, also with issues related to ethics and unprofessionalism. One of the revealed findings was related to shortage of editorial stuff. Lack of quality and numbers of the news editors also relates to economic situation of redactions. Mr. Lőrinc noticed, the occupation of journalists exists within the constraints from several aspects. Usually, one person has too many responsibilities in the fast-paced work environment, which leads to mistakes. Another negative factor of economics and income is related to dependence on advertisers. One of the interviewees mentioned, “Certain topics being cancelled because they deal with sponsors or advertisers. Oftentimes, it is enough when someone just pays for advertisement and he is automatically safeguarded from criticism of certain media.” As mentioned in the discussion of first obstacle –oligarchisation, many refer to diminishing of economic issues because of financial stability of the owners. Stable economic situation might have positive impact on professionalization of the media. Therefore, the oligarchisation can affect the quality of news content. Investing into the informational enterprises by big financial groups might positively affect development and improvement of technical and personal support in the media, which was stressed by Mr. Múdry.

5.2 Privacy and public interest

The second research questions studied how journalists cope between two clashing rights: freedom of speech and right to privacy. The expectation formulated in the second hypothesis was articulated to examine whether freedom is hindered by right to privacy. Freedom of expression and the right to privacy are both protected by the European Convention of Human Rights. These rights are relative and exercised under certain conditions with an extent of possible limitations. According to European Court of Human Rights case-law, the reputation and honour are subjects to be protected when freedom of expression is declared. Degree of protection of privacy is certainly high. European legislation clearly distinguish between groups of different approach to rights according to their occupation in the public. For instance, public officials, politicians, and judges should endure higher threshold of criticism while ordinary citizens are more protected within the system. Currently, the biggest recognized dilemma for

journalists is to work within the legal framework posed by the government and own conscience related to watch dog function.

The respondents release information according to certain conditions. The most important is considering to what extent is topic related to public interest and how great is the importance and implication of the case for the society. Among the most decisive factors are corruption, public finances and their amount, violation of human rights, and endangering the life. Private family life is highly protected regardless of the occupation of the person. Continuously, there are cases of infringing the sensitive area of family lives of public persons, which is perceived negatively. These matter are to be protected by law. Most provocative are tabloid newspapers, but lately the serious press also began to engage in sensationalism. In order to have these matters secured, the law has significant position in the country. According to Warburton, "The kind of freedom of speech worth wanting is freedom to express your views at appropriate times, in appropriate places, not freedom to speak at any time that suits you." (2009, p. 9) His statement might be related to newspapers likewise. Because freedom of expression has certain limitations and in order to provide greatest good for the society the responsibility is necessary. Mill's argument relates to the harm principle. It is the extent to which free speech is appropriate. Harm might be related to defamatory statements about the person which has negative impact on his or her life. Therefore, the international treaties recognize protection of citizens and tend to limit invading the privacy. The discussion whether it is appropriate for government to interrupt free speech and the media freedoms has been perpetuating until the present days. In order to secure and protect individuals the law has a significant position. However, the government should accept media freedom and should not accept intimidation by influential individuals who are often in the centre of media attention. Slovakia follows international treaties, and ruling of the society is significantly influenced by the European law. Media are reaching some degree of stability. This might create a consensus between demands posed by the government, and on the other side, by defenders of free speech. The rights needs to be balanced by ethical norms which determine what is appropriate to disclose.

Considering the rights of citizens and simultaneously the right to be informed is a troublesome for those working in the informational sphere. To distinguish properly between people who should have higher degree of protection, the European Court of Human Rights provide clear recognition according to the case-law. The groups who operate within the public sphere as powerful and who decide upon important public matters have their protection lowered.

One of the arguments of free speech is related to democracy and public debate. In order to make one government credible the citizens should be properly informed about the matters of public interests. With regards to democratic principle the scrutiny over the powerful is significant part of the media. Citizens choose their government and expect them to fulfil their promises to ensure flourishing of the nation. Therefore, media should objectively describe ongoing issues, but also comment, provide the opinions, and solutions, which might involve certain subjectivity. The Slovak media scene is notorious for permanent litigation with regards to defamation as the result of two clashing rights. Consequently, invading someone's privacy should be properly justified and related to public interest. However, Slovak officials and politicians frequently misunderstood the criticism and scrutiny by journalists. They are offended when media release critical articles about their unreasonable decisions and tend to sue the newspapers requesting extremely high financial compensations. Many respondents express concern of these litigations, which aim not to provide remedy for damaged person, but to intimidate the media. It is clear the free expression contributing to the serious societal issues, providing relevant debate in the society, is the one worth wanting, and without critical scrutiny improvement might be inhibited.

Each journalists cope with clashing rights differently, some demands higher freedoms and refuse conservatism of the society. Others, access the right to reputation and right to privacy with consideration. All respondents agree that, there should be respect for private life and the society should have generally structured categories to determine what belongs to the area of public interest. Several participants agreed that, each story might be written in a various ways and the correct one is to minimize the harm. Mr. Vagovič noted, "When I'm not quite sure I choose the cautious tone of the critique." How the story eventually affects the person depend on degree of criticism imposed. Relevant strong facts allow higher criticism. Respondents usually choose different language style according to the evidence and type of a person. The final step is considering whether the person is related to public interest.

"It depends on who I write about... when I write about the ordinary person who is not a politician, I respect the right to privacy... but when it comes to politics and the public interest, I think even if the rights are in a collision, for me as a journalist, the greater importance would be the public's right to information," said Mrs. Petková.

Current system might create difficulties, but these are not an obstacle for practising journalists. Respect for private life and right to privacy is widely appreciated by the mainstream journalists. They are aware of privacy but are not limited by the legal norms, rather, they try to work within norms and rights established in the society. Generally, the right to inform is

appreciated but considered in every case individually, to determine how important is the case for public interest and to what extent might the public profit from released information. Respondents build their reputation on investigation which has significant implication for democracy, and they tend to avoid harm. Reputation of public officials is under current scrutiny, but it only being affected after collecting the strong evidence.

5.3 Ethics and journalism

Lippmann with regards to American news states, “They do not publish circumstances on public affairs, but keep nation on the straight and narrow path.” (1995, p.10) The similar narrow path could be seen in Slovak commercialized news which retreat primary intention of criticism and watch dog function of the media. Their fundamental role was to examine and monitor officials and their activities, but social transformation changed the role of informational processes. The last question reveals ethical approach of modern journalism. The aim of the research was to uncover whether business strategy to fulfil desirable financial revenues takes precedence over ethics; and under what circumstances are the ethical norms violated.

In the free democratic society ethics and morality has a significant position. Basic ethical norms are universally recognized human standards. Legislation might punish wrongdoers, but in order to minimize future damage, the people follow certain rules which they have acquired during the life. Many reputable professions including journalism have ethical codes to adhere to. The first original version of ethical code exists in Slovakia from 1990 and has been later modified respecting changes in Slovak and foreign media environment. The draft was officially accepted by the Slovak Syndicate of Journalists, which is the association uniting journalists in the country.

Currently, the ethical standards exist under several threats posed by oligarchisation, economic, legislation, and judiciary. Each of them was identified as the obstacle regarding free speech. It could be argued, the ethical issues are linked to overall status of the society by which the potential violation and issues could be comprehended. The actions of journalists are motivated by their duties and are determined by Kant’s rationalism rather than pleasure of greatest happiness, as discussed by Mill. Respondents evaluate their actions and have certain motives. Even violation of ethical codes is motivated by endeavour to release information which contribute to public interests and are important for citizens.

All of the respondents consider ethics significantly. Mrs. Lacková said, “Each word matters. Sometimes, I write one sentence a whole day.” Details and correctness of the messages

is what majority of respondents follow. The truth is widely the most important ethical norm which gives precedence to other following norms as; objectivity, impartiality, and professionalism. The majority consider the most important the truthfulness of the information. It is the foremost ethical norm and simultaneously the ground for correct investigation. The ethic represent journalists' credibility, satisfaction, and conscience. The serious investigative reporters are strongly engaged in truth seeking process. The crucial job duty is to constantly test the truth to minimize falsehood. Even the small incorrectness might have very negative impact on the job performance. It can raise public critique and negative judgment about the media they represent. Truth seeking process is influenced by internal factors related to individuals, but there are serious external factors that pose obstacles under which truth might not emerge.

Oligarchisation, legislation, and judicial verdicts might hinder the truth. The former prevents emerging of the truth because of the corruption, lack of objectivity, and shortage of the informational sources. The latter affects the truth because of chilling effects which limit individuals and their expressing rights. Hence, it indirectly restrict searching for truth and truthfulness of the facts.

Respondents are concerned about issues related to truth seeking, because it could be shadowed by powerful groups and individuals making decisions without having political mandate - oligarchs; or by influencing politicians through the financial support of investment groups, and further economic activities within the political party. As Mrs. Lacková said, "Some of the former contacts never answer the phone again." Many other refer to hysteria, subjectivity, and fear. Mrs. Petková said, "There were paradoxically more articles written in order to criticize the owners which did not mirror the reality the reader needs to see." Oligarchs are often considered as generous sponsors of political parties which is perceived as clash of interests. Some argue, decision making process is not in hand of politicians, but rather it depends on those who have financially lucrative businesses and could influence the political sphere. However, the politicians tend to refuse any connections to oligarchs because it would have negative impact on their credibility. Numerous news investigators try to shed a light on the essence of crucial political decisions. If the oligarch are the owners of the newspapers the investigation might be limited because of indirect influence. The value of truth is restricted because of suppression of individual freedoms of editor and publishers from their owners. Mr. Vagovič noted with regards to ownership, "The control of governmental power is irrelevant." Which means the owner affects the critical scrutiny seriously.

Simultaneously, it has impact on personal freedom which is the last dimension of Jakubowicz's account of media independence. Detachment of journalistic duties from political and economic interests is one of the premises of independent informational services, which contribute to the public sphere. According to Jürgen Habermas and his assumption of independent public sphere, the citizens should be formally and informally allowed to control the state. (In Jakubowicz, 2007, p.31) If the individuals feel the restriction to exercise the watch dog, emerging of truth cannot maintain.

Legislation might limit truths because of chilling effect and fear from negative consequences. It has been revealed, the Slovakia has standard press law and media related legislation, but they are often misused. Indirect actions of government limit the press freedom whereupon, it has negative impact on the ethical norms. Journalist might be aware of certain circumstances, but will prefer to not publish them because of the devastating penalties, as was noted before with regards to era of lawsuits of Mr. Harabin, when one redaction had an unwritten rule to avoid investigation. Twelve out of sixteen respondents experienced civil litigation which makes the situation about the chilling effect even more serious.

Economic obstacle relates to objectivity and truthfulness of the news. Several respondents revealed that paid advertisement is security from criticism. To ensure revenues, the newspapers tend to abolish investigation about advertisement payers. They either avoid the stories or soften the critique. Economic has further impact on professionalization of the media accompanying quality of the media outcome, which is parallel with unethical writing. The previous history was mainly characterized by unstable and cheap working staff. The journalists were regularly working without permanent contract, forced to work as freelancers, which would guarantee the minimum fee. (Fulle & Mistríková, 2002, p.487) Without full-time contract, the vulnerability and poor quality of journalists increased. Working agreement provide certain protection and support with regards to external obstacles.

Attachment to the certain institutions increase the professionalization. Mr. Múdry states, "Everyone can write articles, but not everyone can be a journalist." This is one of the main reasons for which the country should have specific rules to distinguish between professionals and laymen. Thus those who professionally contribute to public debate could be protected. The current situation of the Slovak Syndicate of Journalists does not provide any assistance for practising journalists. There is a huge demand for association that could unite and stabilize the working standards and journalists. Worldwide, there are numerous international organisations. Their task is to educate, discuss, and provide support, which has positive impact on the quality of the newscast. The education is especially significant while discussing the ethics. The

invention of the internet and commercialisation of the informational commodity cause the abolishing of basic principles of professional journalism. Without functioning association the development of journalistic profession might be inhibited. Moreover, the current ethical standards are controlled by the Press Council which was established to increase following of the ethics. However, the council has numerous issues. It does not monitor the press, but only decide upon formal complaints addressed to the institution. Furthermore, they do not impose the financial compensation, but only decide upon warning, concern, or rebuke. The issue of the Press Council is related to promotion, not many respondents know about their function and their decisions are often ignored. Members of the council is an unpaid position with numerous limitations.

After reviewing the former complaints in the last three years it has been found the majority are related to regional or tabloid newspapers. The former relates to economic obstacle, the latter to sensationalism. Breaching of ethics in the regional press relates to lack of professional standards because of the unexperienced working staff, while tabloid press is notorious for intended violation of ethical code for the revenues.

With reference to professionalization and objectivity, the current ownership concentration and presence of financially stable oligarchs in the communication arena can help to establish organisation that can unite practising journalists and publisher within the country. Mr. Múdry informed about the plan of new owners to create an organisation of publishers which could help to solve issues related to legislation, also to discuss ethics and ethical codes.

5.4 Chapter summary

The discussion part was created to make a consensus between conducted knowledge and the theory implied in the research. The aim of the chapter was to properly discuss the main finding and results in the light of public sphere, free press, and free expression theories. The crucial part of the chapter was to select information of the great importance, gained from the qualitative interviews with the 16 respondents, and to summarize them together with existing knowledge in the area of the study. Discussion revealed the main obstacles and strived to explain the journalistic limitations. The research considered as important to explain how privacy and ethics relate to current obstacles; and which kind of consideration they represent for professionals within the communication sources. It was confirmed the ethics and respect for the privacy represent major significance for reliable and credible news production, and it is widely respected, and violated only under certain conditions. The research will be summarized in conclusion which is the last chapter of this study.

CHAPTER SIX

CONCLUSION

6.0 Aim of the research and contribution to the field

The main aim of this research was to evaluate the current state of free expression from journalistic point of view. Journalists significantly mirror the society and degree of free speech. They often come across obstacles arising from the political and the market pressures. Therefore, the study mainly focused on practising journalists working in the printed media. This type of media was chosen because of its nature. The newspapers are among the oldest communication tools. They exist without any subsidies and in the past history they experienced changes in the ownership and serious economic issues. These communication sources are still one of the main contributors to the opinion making processes, having different views on a various topics. They exercise the watch dog in the country, reveal the most critical expressions, and provide the most serious investigation in the area of public interest. The goal of the study was to elucidate the seriousness of existing obstacles and to what extent they cause the chilling effects and self-censorship. The study simultaneously focused on the ethics and the privacy issues. According to the critique of the newspapers, these are often violated. Respect for the ethics is very important, while freedom of speech is declared. If the democracy should be manifested through the news, they are to be fulfilled by moral values and respect for the private life. By examining current limits and responsibilities of the journalists the thesis could contribute to the existing knowledge in the field. The study highlighted strengths and weaknesses to understand how journalism is developing along the democratic values. Through examining the current issues one can work on solutions, improve the future journalism, and informational tools. The mankind depend on reliable and impartial information which form perception of the world. The aim of the study is however, not to solve the issues, rather to provide a general status of the journalism and to record the current situation for the future.

6.1 Summary of current obstacles

The research began with certain expectation related to limitations in the terms of legislation and chilling effects. The respondents identified three main obstacles. The most discussed was the worry about negative effect of oligarchisation. The reason was the recent media ownership concentration which took place in 2014. Nevertheless, the year received the

highest range according to free speech index of the Reporters without Borders. Historically, it is the best freedom valuation the country have ever experienced. The 14th place in the list means huge improvement, after the 25 years of democratic development. Progress could be related to decline of numbers of the lawsuits. As noticed in the previous chapter, some cases of ECHR favoured freedom of speech over the right to privacy. Pressure of international organisations also affected the lawsuit frequencies. Economic situation improved and stabilized by entry of the big investment groups into the media sector. Trend of threats decreased; however, they have not disappeared completely. There are serious ongoing issues threatening the state of free expression. Journalists, interviewed within this study at the beginning of this year – 2015, still refer to all three obstacles mentioned above as persisting feature limiting their job. Economics, legislation/judiciary, and oligarchisation intervenes into the regular working tasks. Therefore, it was important to summarize why the obstacles persists, even after the index of free speech significantly increased.

All three obstacles are strongly interconnected. The initial expectation of direct limitation of journalists was not proved. The publishers might be under the pressure, but journalists feel freedom to write according to their conscience. The study did not focus on editors or publishers, but mostly on individuals who personally contribute to the news content. Respondents refer to freedom of individuality because they can themselves enforce their own opinions and arguments. The only limitation is the lack of credible and relevant evidence about investigated topics. Direct obstacles have diminished. Currently, there are rather indirect constraints affecting the journalism. This is concluded because none of the interviewees experienced censorship or similar form of prior limitation of the topics or articles. There are numerous indirect effects. As it was revealed, having oligarch as the boss represent conflict of interests among many journalists. They choose to be critical and independent, but the criticism often does not mirror the reality. The issues also occurs when the owner have connections and indirectly limit the investigation by shadowing their previous informational sources. They might be prevented from searching the information. Their credibility is lowered by the oligarch-owner, and generally, they are not recognized as a reliable news source by other professional journalists. To gain reliability they choose constant criticism of their owners. Oligarchisation might have negative side but undoubtedly it positively affects the economic situation of the media. The more stable the medium will be, the more effectively can contribute to professionalization of the journalists. The fear of devastating penalties would not be further relevant. Chairman of the IPI Slovakia states that, problem arising from the ownership of the media is not relevant. But he perceive negatively the country legislation and misuse of the law,

also the court decisions. This is the second biggest obstacle. The situation of civil and criminal cases seems to be stable, but it is not a rule.

As Zeno-Zencovich argues, “Free expression is guaranteed and because it uses certain media, this media are to be protected.” (2008, p.6) However, the state continues to gain certain degree of control, as articulated in article 26 section 4. Among the main reasons are: the state security, protection of individuals, public health, and morality. Throughout the last couple of years the investigation of journalists was perceived as one of the biggest threats for public officials. The Press Act amendment of 2011 improved the degree of free speech significantly. Until the present days, none was able to remove criminal prosecution for the defamatory statement, section 373 of the Criminal Code. The remains of communism thus continue to exist in quite stable democracy. There were not any journalists imprisoned, but they can earn criminal records, which might have extremely negative impact on their future live. It is understandable that, in order to ensure the protection of the individuals, make the free speech credible, to ensure a good debate, and flourishing of the society, the Slovak government should retain some degree of control over the freedoms declared in the constitutions. But limitation should be balanced to avoid serious threats of chilling effects. Slovakia follows the international treaties and the latest decisions of ECHR affected the situation positively. Slovak courts were in several cases deciding differently than the Strasbourg court, and the highest amounts of financial compensations were awarded to public officials, politicians, and judges. While ECHR states the public officials must endure higher threshold of criticism, the Slovak courts award the penalties and apologies in the newspapers while stating, the public person is well known which means more people would be interested about the case, and thus the degree of the damage would be higher. This is the most contradictory fact. With regards to the high penalties, the impact on publishers and owners might be more serious than on individuals within the print media environment. Simultaneously, the decisions of the court might raise serious questions about judiciary’s impartiality and the ability to rule the cases. Considering that the politicians made a profitable business out of a civil litigation, then the issues of clientelism and corruptions are necessary to study with regards to judiciary likewise. However, the research did not interviewed any judges, which would contribute to the knowledge about the court rulings and the final verdicts. One cannot make the complete conclusion, but I believe, to evaluate the court cases and interview, the judges might be relevant for the future study related to free speech and journalism.

Nevertheless, the journalists are neither limited by the civil litigations nor the criminal prosecutions. Unless, they do not have a full working contract, there is no worry about the future

lawsuits. Their employer provide the biggest support, covers the court expenses, and pay the penalties. In case of criminal prosecution there is a criminal liability of individuals, but they are supported by the colleagues, supervisors and various civic organisations. The legislation could represent an indirect effect on free speech. None of the journalists admit the limitation; however, they are more concise while writing the stories. They avoid publishing the evidence without having a strong arguments.

To ensure the future stability with regards to lawsuits and court rulings, there are three main areas that requires a modification, based on the statements of the interviewees and their personal opinions.

Firstly, the removal of the criminal prosecution for defamation from the Criminal Code is crucial to increase degree of freedom of speech and the media. The criminal cases are rare and only three of the respondents had a personal experiences, but the existence of the section 373 of No. 224/2010 Coll. is perceived as a threat which leads to chilling effects. Criminal liability of respondents might lead to unpleasant criminal records and the period of the prosecution have negative effects on future investigation of the affected person. For the statements provided in the media the potential imprisonment is perceived as a serious intimidation. Free speech should not lead to imprisonment in democratic countries.

Secondly, the court decisions and justification should be more precise. In the past, judges were considering extent of damage according to the subjective statements of the plaintiffs, their family members, and friends. The financial compensation often exceeded the acceptable level, the salaries of the individuals, and the income of the media. The nature of extremely high penalties might raise a questions about the purpose. Many perceive the intention of the penalties to intimidate the media and to remove the critique, instead of providing redress for the damage. Currently, as Mrs. Kovačechová states, the non-profit organisation *VIA IURIS* is involved in the reforms in the judiciary to increase correctness, and to improve phenomenon of corruption and clientelism, which also causes the unreasonably high compensations.

Thirdly, the public officials should understand they role in the society and accept the criticism. Pavol Múdry explains the tendency of public official to sue the media, as the legacy of communistic regime. Before 1989, the government had a strong control over the media and the private ownership did not exist. Since the politicians' previous examples to learn from were only the communist leaders, they need time to understand the role of the media and the meaning of free expression according to the western principles. As he furthermore states, the politicians have regular education, rarely political education, and they have been living in the society with contradictory rules. Therefore, their misunderstanding of the media and watch dog function

could be comprehended. However, the society currently has examples of the European Union leaders. Therefore, this is the time for changes, to avoid intimidation and misunderstanding of the media role.

6.2 Summary of privacy issues and ethics

Protection of the privacy and ethics is a significant part of contemporary journalism. If the media gain freedom from the state, they are required to use it responsibly. Current unethical behaviour is giving power to those who would like to criticize the media and initiate the civil litigation or criminal prosecution. The peace between public officials and media will last only if the respect for moral values and the public life will be exercised. To follow the standards the journalists come across various dilemmas. They would breach the ethics and the private life only when the situation requires so.

The ethical norms are influenced by strengths and weaknesses of the society. The professional and impartial journalism is necessary complement of functioning democracy. In order to avoid violation of the ethics, there are numerous factors that need to be eliminated.

First of all, many see overall improvement of professionalism while having a functioning journalistic association, which would provide support and education. Individuals can learn from each other and discuss various issues. Functioning organisation means more power for individuals and the media likewise. It can affect legislation and further issues of ownership concentration of the print media.

Secondly, the ethical consideration depend on the type of the media. Different approach is seen in the tabloid and the mainstream press. While tabloid considerably depend on sensationalism, the mainstream tend to minimize the violation to a necessary extent. Judgment of violation of the ethics must enhance the matter of public interest. If the information are serious in the nature and reveal the important data related to corruption, violation of human rights, and mismanagement of public finances, and if the only chance to gain information is to breach the ethics, then it could be acceptable. However, the individuals must strongly consider whether the violation of the ethics leads to the debate appropriate for functioning democratic society.

On the other hand, sensationalism of the tabloid press might be acceptable under certain conditions. If the information do not harm individuals but aim to simply entertain the people, without having negative impact than it could be appropriate. However, it does not fulfil the primary role of the media and the newspapers within the public sphere.

Violation of the ethics depends on several factors. Each of identified obstacles represent deficiency in terms of ethics. Oligarchisation and legislation hinder the truth and unstable economic situation inhibit professionalization of the journalists. To balance negative constraints, I believe the education and functioning organisation could be helpful. Breaching of the ethics is one of the special topics of contemporary critique, but every profession improves based on previous examples. Therefore, the stable journalism means, the good economics and the good education, plus the ability to balance between existing legislation, duties, and responsibilities of the professionals.

6.3 Concluding remarks

Slovakia is a very young democracy with ongoing issues related to social system, healthcare, corruptions, and politics. From the outside world the situation might be perceived stable, but within the country the people continuously strive to improve. They refuse to be poor, limited, and robbed. Slovak Republic is the small country but citizens do have a voice and often they use the media to be heard. Journalists aim to reveal wrongdoers and identify weaknesses of the government and the society. Without professional journalism the democratic values could be undermined and the flourishing of the society can be replaced by stagnation. The media have a significant position in the public sphere. Therefore, they should be independent and protected by democratic government.

Many understand that the government should retain some degree of control over the media. But exercise of the control should protect values of the democratic society, not prevent emerging of truth or critique necessary for improvement. If the government continues to sue the media it would lose the public trust. Simultaneously, if the journalists unreasonably attack the government without presenting reliable facts, the reliability of the media could be also lowered. Therefore, the government and the media actions must be legitimized and balanced in order to provide the greatest good for the society.

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LIST OF APPENDICES

Appendix I: List of interviewees

NAME	ORGANISATION	JOB POSITION
1. respondent number 1 (anonymous)	<i>Tabloid daily, name not provided in order to ensure confidentiality.</i>	redactor
2. Drozdíková Ingrid	<i>Pravda, transl. Truth</i>	deputy editor
3. Horváthová Jarmila	<i>TREND</i>	redactor
4. Kovačechová Eva	<i>VIA IURIS</i>	advocate
5. Lacková Ľudmila	<i>Plus 7 dní, transl. Plus 7 days</i>	redactor
6. Láslopová Silvia	<i>Plus 1 deň, transl. Plus 1 day</i>	redactor
7. Lőrinc Július	<i>Tlačová rada Slovenskej republiky (TR SR), transl. Press Council of Slovak Republic</i>	chairman
8. Mikolášiková Júlia	<i>Nový Čas/aktuality.sk, transl. New Time/news.sk</i>	redactor
9. Múdry Pavol	<i>International Press Institute, IPI Slovakia</i>	Chairman of the board
10. Petková Zuzana	<i>TREND</i>	deputy editor
11. Petrovič Ján	<i>SITA/aktuality.sk</i>	redactor
12. Šiman Ján	<i>TASR- Tlačová Agentúra Slovenskej republiky, transl. Press agency of Slovak Republic</i>	redactor
13. Tódová Monika	<i>DenníkN</i>	redactor
14. Tkačenko Peter	<i>Hospodárske noviny</i>	political commentator
15. Vagovič Marek	<i>.týždeň</i>	redactor
16. Vražda Daniel	<i>SME/DenníkN</i>	redactor

Appendix II: List of periodicals

Name of periodical	Periodicity	Main characteristics
1. <i>DenníkN</i> (transl. <i>Daily N</i>)	Daily	Independent mainstream newspaper established in 2015. Circulation – not published yet Publisher – N press, s.r.o
2. <i>Hospodárske noviny</i> (transl. <i>Economic newspapers</i>)	Daily	Economic daily, focus on finance, business, political commentary, and news. Circulation 2014 – 11 885 copies Publisher – Mafra Slovakia, a.s.
3. <i>Nový Čas</i> (transl. <i>New Time</i>)	Daily	Tabloid format, politics, lifestyle, show business, crime news. Circulation 2014 – 101 172 copies Publisher – Ringier Axel Springer Slovakia, a.s.
4. <i>Plus 1 deň</i> (transl. <i>Plus 1 day</i>)	Daily	Tabloid format, politics, lifestyle, show business, crime news. Circulation 2014 – 45 972 copies Publisher – Spoločnosť 7 Plus, a.s.
5. <i>Plus 7 dní</i> (transl. <i>Plus 7 days</i>)	Weekly	Magazine focusing on domestic and foreign social and political issues. Tabloid style. Circulation 2014 – 121 403 copies Publisher - Spoločnosť 7 Plus, a.s.
6. <i>Pravda</i> (transl. <i>Truth</i>)	Daily	Influential national title with the longest tradition. Circulation 2014 – 48 211 copies Publisher – Perex, a.s.

7. <i>.týždeň</i> (transl. <i>Week</i>)	Weekly	Independent weekly, focus on politics, public events, investigation. Circulation 2014 – 13 045 copies Publisher – W Press, a.s.
8. <i>Trend</i> (transl. <i>Trend</i>)	Weekly	Weekly focusing on economic, management, and business. Circulation 2014 – 11 979 copies Publisher – Trend Holding, s.r.o
9. <i>SME</i> (transl. <i>We are</i>)	Daily	Influential daily, providing domestic and foreign news coverage. Circulation 2014 – 39 917 copies Publisher – Petit Press, a.s.

Appendix III: Interview guideline for journalists

First research question

1. How would you describe the current state of press freedom in Slovakia?
2. What do you see as the main obstacle(s) in terms of freedom of the press?
3. Which kind of impact has this obstacle / these obstacles made on your work, choice of topics and tips?
4. To what extent do you think current legislation works to restrict the freedom of the press?
5. Do you have personal experience with legal cases related to your articles? Have these disputes had any impact on your work?

Second research question

6. What is your opinion about the current right to privacy and right to reputation in the country?
7. What do you do to avoid conflicts between the right to protection of reputation and freedom of expression?
8. Have you ever decided not to process the topic or tip precisely because of this right?

9. What is your opinion about the public apology of publisher ordered by court in defamation cases?
10. Do you write or prefer to avoid the topics which may cause inconvenience for you and your employer?

Third research question

11. Which ethical principles are most important for you when writing the articles?
12. To what extent are these principles important – i.e., vis-à-vis other interests or concerns that may arise because of the topic you're writing about?
13. Have you ever violated a given ethical standard? If not – why not? If yes – how?
14. Do you consider financial pressure (loss of advertisement income, lawsuits) and economic revenues more important than adherence to ethical principles?

Appendix IV: Guideline for the chairman of IPI Slovakia

International press institute, IPI – Slovakia

Slovak Committee of the International Press Institute - IPI Slovakia was established in July 2008. The organisation brings together professionals from the most influential Slovak media.

1. How do you perceive current state of free expression?
2. What do you see as the most significant obstacle of free speech?
3. What is your opinion about the media legislation?
4. Do you agree with high financial compensation for a defamation?
5. What is your opinion about the Bonnano case?
6. How do you understand approach of the public officials to privacy and reputation rights?
7. How do you perceive current situation of Slovak Syndicate of journalists?
8. What is your opinion about an ownership concentration and recent establishment of the *DenníkN*?

Appendix V: Guideline for the member of VIA IURIS

VIA IURIS

Via Iuris is a professional organisation cooperating with lawyers. The organisation specializes in assistance with the lawsuit cases; also engaging in the cases against the media and journalists.

1. How do you evaluate lawsuits against journalists, publishers; and the final court verdicts in these cases?
2. To what extent do you provide legal assistance for a defenders from the informational sources?
3. What is your opinion about the protection of the reputation and the privacy of public figures in Slovakia?
4. What is your view about a punitive monetary compensation of a civil litigation?
5. What is your opinion about awarding financial compensation if the claim has been proved to be truth?
6. What is your opinion about a criminal prosecution of journalists?
7. How do you perceive the current state of legislation and its impact on freedom of speech? / Do the litigations represent an obstacle for free speech?
8. What is the trend of trials against the media in recent years?

Appendix VI: Guideline for the chairman of the Press Council

Press Council

Press Council deciding upon the complaints of contraventions of the Code of Ethics. The organisation was established in 2001.

1. How do you perceive the current ethical standards of journalism in the country?
2. How is the Press Council protecting the ethics?
3. What are the numbers of complaints in recent years? Have you recorded increasing or decreasing curve?
4. What are the main reasons leading to violation of the ethical codes?
5. What do you recommend for the future improvement?
6. How do you see the correlation between press freedom and ethics?

Appendix VII: Informed consent and written agreement

Request for participation in the qualitative interview for master thesis

” Journalism as the mirror of the Slovak democratic society - current limits and freedoms of the occupation ”

My name is Jarmila Ocel'ová and I am a master student at the Department of media and communication at the University of Oslo. I am writing the master thesis about freedom of expression and journalism in the Slovakia. I would like to find out more about the current freedoms and restraints of journalists in the country; how journalists perceive freedom of expression; and how journalists are affected by the situation of current obstacles arising from Slovak legislative and ethical principles.

To examine this matter I decided to ask you to participate in the interview. All interviewees are journalists from Slovakia's biggest newspapers and journals with nationwide coverage. Additional interviews with media and law experts will be conducted to complement knowledge obtained from you as the journalist.

The interview has three parts and the questions will deal with freedom of expression and your perception of its current limits; legislation that affects journalism; and the ethics of the journalistic occupation. The approximate duration of the interview is 30 minutes. The interview will be recorded using recording software on a mobile phone. The alternative paper notes will be taken while asking the questions. The final recording will be transferred to my laptop, and securely stored and protected from misuse as directed by Norwegian privacy laws and the specific requirements of the Norwegian Social Science Data Services (NSD).

All information will be treated confidentially. The name list and key list with name codes will be stored in separate word documents. The laptop is protected by username and password. Only I and my supervisor will have access to the primary data.

You are free to determine whether your name will be published in the final version of the master thesis. If you decided to stay anonymous, your name or place of work will not be included.

The project scheduled termination is 15 May 2015. All data you agree to provide will be used only in the master thesis, accessible at the library at the University of Oslo. Primary interview data stored in the personal computer will be deleted and only the final version of the project with analysed data will be stored.

Participation in the study is entirely voluntary and at any time you may withdraw your information without giving any reason. If you withdraw, any information about you will be anonymized to ensure your privacy and confidentiality.

If you would like to participate and have any further questions about the study please feel free to contact me by phone +47 4579 2115, +421 944 135 573 or by email jarka.ocelova@gmail.com. You can also contact my supervisor Charles Melvin Ess +4722850404, c.m.ess@media.uio.no.

The study is reported to the Privacy Ombudsman of Norway to ensure compliance with Norwegian personal data protection laws and prescribed ethical obligations of researchers.

Consent for participation in the study

I have received information about the study and I am willing to participate

(Signed by the project participant, date)